80th Percentile AM Session
Alaska Division of Insurance
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Q: For those that you do not know me I'm Lori Wing-Heier, I'm the Director of the Division of State of Alaska. We're here on January 6th 2017 to hold a public scoping hearing. This is not a regulation hearing; this hearing is to take public comments to hear your ideas, your concerns, with what we commonly call the 80th Percentile Regulation. Regulation has received a lot of public comment over the years; the Division has had discussions with various members of not only the medical community, but also the insurance community and consumers. For the record, just for those that are not familiar with the regulation, I have a few slides. I'm going to go through them briefly. A few housekeeping matters. This hearing also in Juneau, Alaska in the State of the Office, or State Office Building, the SOB so we will have people online

there, it is being led right now by Deputy Director Anna Latham, I am here in Juneau. We will take comments from the consumers or the interested parties in Juneau as we will from those in Atwood. We are holding a second hearing tonight at 5:30 because we know this is very emotional and very concerning to many. We thought by holding a second hearing we could get those that are unable to attend during the work hours so if you do not get a chance to testify or prefer to come back and testify later this evening, the buildings will be open at 5 o'clock and we intend to take testimony up to 7:30 and if people are in line at 7:30 we will keep the hearings going until everyone has a, a chance to testify or read their comments onto the record. We're going to go through the Power Point, well let's hope it works. And it's not going to. I'll assume I had a Power Point. Keep in, one of the concerns that we have at the Division, one of the things where we think that we got off track with consumers, with providers, and with the insurers, and the insurance industry is we don't have the authority in Title 21 or in regulation to negotiate medical fees. We're insurance regulators and that's what we have the authority to regulate is insurance. Where did we get, come up with, this would make a whole lot more sense, I can put through the slides, which I'm not real sure why I can't but...

Man: (Unintelligible).

Q: Yeah, please. I'm not sure it's coming, all right thank you. What am I clicking? This one?

Man: (Unintelligible).

Q: All right, wait a minute, (unintelligible). Okay, what is the 80th Percentile? Are you on Anna in Juneau? Are you following us? Brian?

Q1: Okay. Yes, (unintelligible).

Q: Going back to 19 - 2004 a person that provides coverage in the state, and this would be the insurers, coverage, services are (unintelligible) basis for which benefits are based, the minimum threshold is equal to or greater than the 80th percentile of charges based on statistical credible profile for each geographical area. We assume that most are using FAIR Health consumers, Ingenix could be another one but it's a statistical database from which they're pulling their data to then determine what the 80th Percentile is. It's not the 80th percentage and I think when we talk to consumers they think it's 80th percentage, it's what they should be paid and there's a big disconnect that they're being paid 80% and it's not 80%, it's the 80th percentile and when we talk to consumers and certainly within the last week, there's been a lot of talk about 80% as opposed to in 80th percentile. But it's been the general methodology since 1989 how to calculate what payments are based but the 80th percentile came about in 2004 when there were a number of consumer complaints that claims

were not being paid, or saying claims were being paid way below a standard that consumers wanted. The regulation was adopted for a consumer protection. Different health carriers can pay different charges, there's no regulation that says all health carriers must charge the same charge. And that's part of the problem. The rule applies to insurance plans and the individuals, the small groups and large groups. It doesn't apply to large self-insured plans, it doesn't apply to the Conoco, the BP, the large plans. I've had a lot of those plans calling but if they for the most part, do not, are not impacted by the 80th percentile. Their plans may arbitrarily, besides pay benefits according to this but they're not obligated to, they may pay higher and they may pay lower. The rules have been criticized for influencing the health care market in a manner that drives up costs and healthcare in the state and that's part of what we're here to talk about today. Is it truly driving up the cost of healthcare in states? There was a commission study in 2013 that said it exasperated the relative health care provider leverage and pricing stating since many health providers here have over 20% of their market share that supplies its own providers to ensure their charges are below the 80th percentile and therefore receive payments for all bill charges. We gave a couple of examples of how we think the 80th percentile works, or would work with or without. One is on a knee replacement and one is the removal of polyps on a colonoscopy. So the consumers, those in the audience can see, basically with and without the 80th percentile and if we went just for discussion, if we went to a 200% of Medicare, just to see what the charges would be and we use the basis of the Fair Health Gap. And again, this is just for discussion points because this is a public scoping hearing to talk about how this would work and I think it's fair that consumers can think that it might be 80%, understand that it's the 80th percentile and in the end there's a component of what the fee of the provider is and there's a component of how these charges are then extrapolated out to what they would be paid and what their balance billing would be. And that's what we need to discuss today. Is the 200% right? Maybe not, maybe it's 300, maybe it's 400, but it's a discussion point and that's the intent of this chart. Just for discussion point of what it would look like without the 80th percentile and what a consumer and an individual or small group market could potentially have as a balance billing. And if in this discussion there should be another mechanism of balance billing that other states are looking at to replace the 80th Percentile. At this time the Division does not have plans to repeal the reg, they are not looking to kill the reg, we are taking public comments at this time to see what the plan should be. And with that we are open for public comments. I will tell you we are making copies and I'm having them brought down, we have received probably 75 letters of public comments to be thrown in there for medical providers that are obviously in support of the 80th Percentile. We have, uh, a (unintelligible) as is or being modified we are bringing them down so you can all see them. We are also, uh, the letters that are not in support are in there. There are fewer of those, but they are in the packets. We will be posting them online when public comment closes this,

this evening. Um, we will have all of them copied so that you can pull them down but we are going to be (unintelligible) to date with support for the 80th Percentile (unintelligible), uh not, not in favor or want to see the 80th Percentile either repealed or they want to see it amended in some way. So with that I'm going to sit down. You absolutely do not need to use the podium, but we'd like to open for public comment. This hearing is being recorded so we will have all comments on record to truly be able to stop, to go back and take a look at what people said for the administration. I am certain the legislature will be interested in what it said and go forward with sign in sheet and I'm going to ask you to sign in before you testify so again we know who you are, who you are with and, and the viewpoints expressed. We all know that it's happening with insurance rates, I think we all agree that there are steps we need to be taken, I think what we don't bring out (unintelligible) and, uh, we're hoping that this open discussion (unintelligible). But is there anybody that wants to testify first? I have (Cynthia Morris) from Household Neurology. Cindy do you want to testify?

Woman: Go ahead.

Q: Okay. And you had (unintelligible) testify. So...

A: Madam Director, uh, I'm Joe Beedle and I'm from BanCorp Chairman, that's the holding company for Northrim Bank and affiliated, uh, companies. Uh, Northrim, et., al, uh, the subsidiaries included and affiliates employ more than 400 people in the State of Alaska. Moreover we are a 1.5 billion dollar in asset financial institution that serves the financial needs of some 50,000 Alaskans, their businesses and their families. I speak today in favor of repealing or modifying the 80% rule. Like a drug prescription, the side effects and unattended consequences, or the expiration of, of such, uh, prescription, um, may have occurred. The prescription or treatment needs to be discontinued. When the 80th Percentile Rule was desired and maybe appropriate in the 80's, uh, specifically for medical services and procedures in, in Alaska that were underserved. Such incented implemation- implementation of the 80% Rule may have had an initial favorable role in attracting such specialty services to Alaska that is now producing unprecedented, unintentional and unnecessary market cost increases. At North Rim, uh, we have experience a $1 million dollar increase in employer health care costs during the last couple of years and our employees have experienced a similar increase in their premium and out of pocket costs. Specifically this represents approximately a 5% decline in that income opportunity, um, and our market, uh, potential capitalization, the value of our bank and causes us to be less competitive and efficient as compared to our lower 48 and online competitors. The increase in costs represents the equivalent of 20 jobs at our business enterprise. We believe that only 1/3 of the costs share escalation in Alaska is directly attributable 80 Percentile Rule and such incentives no longer are an appropriate tool to

incent, especially health care services, at least in its current form. Possibly over simplifying I would argue that the 80 Percentile Rule equates to requiring payments of 30% over the average, or mean market price. Something that is not correlated in any way to costs of service or outside market comparables. Accordingly and respectively, uh, we strongly encourage you to repeal or significantly change the 80 Percent, Percentile Rule to help reduce the disparity between such costs here in Alaska and elsewhere and we thank you for scheduling this hearing or comment opportunity to gain input on behalf of employers and employees that suffer this extraordinary cost currently. That concludes my comments and I'll hand this, uh, to Mr. (Chip Wagoner) if I can (unintelligible) in hearing notice.

Q: Next Albert.

A1: Thank you, uh, Madam Director for, um, first offering this hearing, um, for us to testify publicly or, or against the 80th Percentile Rule. I'll be testifying today for the Alaska Association of Health Underwriters and also sharing some personal stories from, um, my medical history, uh, for the past three years and how, how the 80th Percentile Rule has affected me with out of network providers. Uh, the intent of the Rule was to protect the consumer and also to prevent balanced billing to consumers from out of network care providers by requiring that health (unintelligible) for healthcare services and supplies based on an amount that (unintelligible) or greater to it, the 80th Percentile of charges in a geographic area. So my question would be, and it's a rhetorical question, how, how do we know that the 80th Percentile Rule actually protects consumers? And how do we know that the, the 80th Percentile is not a driver to healthcare costs? Um, the rule has been criticized for influencing the health care market in a manner that drives up the healthcare in the state. Our organization, the Alaska Healthcare, the Alaska Association of Health Underwriters, has long advocated for the division to repeal or modify the 80th Percentile Rule in order to start the process of controlling the escalating healthcare costs in Alaska. Amending the 80th Percentile Rule would be the first step in creating a sustainable, sustainability for the cost of healthcare in Alaska. AAHU recommends the institution of a reference based pricing model to determine the charges for care in the State of Alaska. Moving to the reference based pricing model would instit- and instituting a balanced billing solution or legislation would create a floor and a ceiling for the charges of care, all while protecting the consumer. Our organization seriously recommends a balanced billing legislation so that it protects the consumer if there is a modification or repealing of the 80th Percentile Rule. Again this will be st- the start of a sustainable solution to the rising healthcare costs in Alaska. I think everyone here understands, with not only their insurance premium, but with their cost of healthcare, how much in the past 10, 10 to 15 years since this Rule has been in place, how much their healthcare costs have gone up and also their insurance premiums. I also want

to note that the lack of competition in our state and certain provider categories allows that a provider that has more than 20% market share get to set the 80th Percentile; which also means that they get to set the escalating costs in Alaska. The Alaska Healthcare Commission, in their findings, and the recommendations between 2009 and 13 felt that the Rule exacerbated relative healthcare provider leverage in price stating that since many providers have over, over 20% of their market share, this implies that those providers can ensure that their charges are below the 80th Percentile and therefore receive payment for their full bill, billing charges, for the providers that we are inflating the, their prices in order to banner the 80th Percentile because the other providers are, are maybe, are basically setting the mark. Also the 80th Percentile Rule is confusing to the general public and even to the legislators. I was at a, uh, a legislative meeting last night where there was a state senator who, uh, did not even know what the true meaning of the 80th Percentile was and informed the public that it was 80% and not the 80th percentile. So they think that they're paying 80% of all the charges. Um, I also want to note that there are no other states in the United States that have this, this rule of the 80th percentile. Alaska is unique in this situation. We feel that, that the 80th Percentile did play a part in the early 2000's to attract providers to the market place and (unintelligible) but feel that it has gone to the opposite affect now, where now it is not protecting the consumer and it is actually causing significant balance billing situations for members. Personally in 2014 I've had about $750000 of medical claims and I've had to utilize some out of network providers due to the specialty care nature, uh, in nature. I've been balance billed myself personally about 6 1/2 thousand dollars where insurance has already paid at 100% and for those services they paid over $70000. Maybe I can afford the 6 1/2 thousand dollars but I know that the average American doesn't have a thousand dollars in their bank account and the majority of Americans, Alaskans, don't have, if they face a thousand dollar bill do not have the means to pay for that without going in debt. So I would encourage you to please review this 80th Percentile Rule, make a modification and move towards a reference based pricing model. Thank you.

A2: This is Representative Guttenberg, can you hear me? I have a question.

Man: I can hear you.

Q: Yes we can hear you, I, I apologize, who is this again?

A2: This is Representative Guttenberg in Fairbanks.

Q: Hello Representative Guttenberg, of course we can hear you and please, do you have a question? This is Lori Wing Heier.

A2 Yes Lori, I, I, I've called in and I have some testimony but I was wondering,

um, if you were going to take online this morning or wait until this evening?

Q: I was going to break and take a couple online right now and then take a couple from Juneau and then come back to Anchorage. If you'd like to go now sir, please do.

A2: Sure, let me walk over, thank you for having this hearing and, um, so I'm State Representative David Guttenberg from Fairbanks and I'm here to give, um, some notice, uh, to me concerning notice on the 80 Percent Rule. At the first paragraph of the Notice read the division of insurance seeks public input concerning whether the provisions of 3AAC26.110, commonly known as the 80th Percentile Rule, should be amended, repeal or remain unchanged, um, additionally if the Rule would be amended or repealed the Division seeks input on a way that the Division could provide for the same or greater consumer protection that the Rule currently provides. Well, I'm glad and delighted that the outcome of this process will provide no less but hopefully greater consumer protection that the Rule currently provides, um, I would expect no less. I, I hope that the outcome of this process isn't just an adjustment or an elimination of the Percentile Rule. When you talk about balanced billing and the Alaska Healthcare Commission's findings or recommendations about the Rule exasperating and manipulating pricing, it becomes clear that this isn't simply a place to make adjustments to the Rule. The natural progression to answer the question you asked leads to the larger question about healthcare and healthcare administrative costs. I believe that the 80th Percentile Rule and its relationship to the 100% of costs are built upon costs that are commonly referred to in usual customary and it's my belief that usual and customary are more appropriately called arbitrary and capricious. Uh, as you explore the reasons for the ever escalating medical costs, each aspect of the industry understands that there's a systemic problem but it's always the other guy's fault. When I read reports on healthcare costs, uh, and unfortunately I read too many of them, they're always discussing co-payments, premiums, deduct, family deductibles, family versus individual, out of pocket expenses, healthcare costs about costs of insurance. In this case it appears to be even more blatant. If you're going to get control over healthcare costs, and have a real discussion about the relevance of the 80% Rule, Percentile Rule, you have to dig deeper and redefine the very nature of determining the costs of healthcare, delivery and outcome. How do we deal with administrative overhead? A doctor took me aside just the other day and told me there are now six administrators for every doctor. One study said that the sixth administer improved our healthcare system and made one patient better or well. The tail is wagging the dog. The State of Alaska as a regulator needs to redefine the terms of what consumer protection means in the context of healthcare. It should not be the costs of insurance; it should be the health of the people of Alaska. When you talked about amending the 80 Percentile Rule, are you trying to control insurance rates and out of pocket costs or are

you trying to improve health outcomes? I believe you could be doing both. I'm looking for process that makes costs and patient outcomes transparent. We're setting terms to regulation, across the nation people are seeking answers. The current climate of Washington DC is posed to throw healthcare into chaos, here at the Division of Insurance you have the opportunity to re-align and structure the nature of healthcare delivery and give the people of Alaska the sense that the system actually works for them. Define what bills the 100% before you work on the 80 Percentile Rule. Go greater transparency into the system, establish standards for overhead, build healthcare outcomes into the system. When I buy a home, when I buy home insurance they want to know about wildfire protection, distances from the fire station, do I have locks on my door? Are there fire extinguishers in my house? These are all kinds of stipulation that determine the insurance rate. Every crisis creates opportunity, the State of Alaska must get its fiscal house in order and Alaskans cannot continue to pay for ever escalating healthcare costs that don't translate into positive outcomes. I realize that I've used this hearing, uh, about managing the 80 Percentile Rule (unintelligible) wander and talk about a larger issue, but I think it's appropriate and I thank you for this opportunity and I thank you for having this discussion.

Q: Thank you Representative Guttenberg and I will see you in Juneau shortly.

A2 Shortly, yes.

Q: Anyone else on the line that would care to testify at this time?

A3 Yes, uh, good, good morning Director, my name is, uh, Jim Lynch, I'm in Fairbanks, Alaska.

Q: Good morning Mr. Lynch, you have the floor.

A3: Uh, thank you, I'll, I'll try to be brief, um, I am, uh, Jim Lynch, Fairbanks, um, I currently serve as the Chief Operating Officer for Fairbanks Memorial Hospital, um, but I am not testifying, uh, formally on behalf of the organization today but as an individual, um, but as a healthcare professional. Uh, I wanted to echo some of what's been said. I, um, glad that the Division is looking at this issue. I think it's important when we have old rules to look at them where they need to be modernized, um, I am not going to have a specific outcome to recommend, I do want to recommend to the Division a couple of cautionary, um, i- item to consider, so one is, um, is my, uh, limited understanding that the movement to, to look at this and potentially repeal is driven heavily out of, uh, Anchorage and South Central, which is very logical, um, I do want to advise some caution that there are still parts of the State of Alaska, um, that would be considered, uh, urban, um, or semi-urban parts of the state, full access issues, so as the Division designs a new rule, um, I would

recommend consideration of those, uh, access issues in some of Alaska's smaller communities. Um, based on the, the changes that you decide to make. Uh, second, um, I wanted to advise caution in terms of the, the necessary balance between, um, the consumer, the insurer and the provider, um, and that your changes to the Rule, um, don't completely, uh, disrupt the necessary balance because that is the, in my humble opinion, one of the elements where healthcare does function somewhat like a free market economy, um, many other parts it do not but the ability for the insurer to negotiate arm's length with the provider for rates, um, to negotiate the opportunity to be in or out of network, um, that leverage is an important part of, of bringing down costs, uh, based on my personal belief. Uh, so, uh, lastly I wanted to offer, um, uh, my personal support and the support of, our organization if you need any help diving deeper into analysis of this or interior Alaska, um, this issue has just hit our doorstep so we have not yet studied it deeply and the impact in our community but would be happy to do so and participate with the Division. Thank you for your time today, uh, appreciate you taking on this important body of work.

Q: Thank you. Is there anyone else on the line before we go to Juneau for a few comments that would care to speak at this time? I'll take one more call...

A4: Okay good morning. Oh, Director Lori Wing Heier, it's Shannon Butler with Aetna, we would just, um, love to comment if we could quickly?

Q: Go ahead Shannon you have the floor. Shannon Butler...

A4: Great.

Q: ...from Aetna.

A4: Hi, thank you, uh, so much for taking our testimony this morning. Um, as you mentioned the Alaska Division of Insurance updated the discovery and regulation in 2004 and then added the 80th Percentile Rule as the standard for claims reimbursement at the time and at the time it was adopted to protect consumers for excess billing and, um, we just don't believe it is doing that anymore so increasingly what we're finding is a small number of providers control a majority of the market share for medical specialty and this means that those specialty care providers are often able to command up to 100% of their fully billed charges since the methodology is focused on the bill charges in the geographical area where they perform those services, um, and so over time the health care cost services have dramatically increased as others have stated this morning, far beyond the amount allowed by CMS, um, and far more than what we are experiencing as an organization across the US, um, and so therefore we've seen many examples of claims for the non-participating providers where the charges are above the 80th Percentile, um,

allowable and they're in excess of anywhere from 400% to 1500% of CMS allowable amounts and, and it, um, and in addition to the higher non-par allowable amounts the rule is impacting, um, the cost of care for the contracted providers as well so, um, if a provider knows that they can earn 400% of the CMS allowable amount, and if they're a non-par, or non-participating provider, then the incentive to enter into a health plan contract with ourselves or any other, um, health plan in the area, it's just incredibly diminished and so it's really a disincentive in that realm as well, um, to increase those, um, networks so that there's more availability to Alaskan's that are insured, um, and then also, um, as you mentioned earlier, um, you know, this does not impact self-insured plans in Alaska but we have noticed a trend where some of the self-insured plans in Alaska have started paying a percentage of Medicare for those out of network services and so we feel like there's a new kind of acceptance in Alaska or a new shift to, um, maybe accepting more reasonable payments where the providers would be more willing to join the networks down the line so, um, watching that trend in the self-insured plans has been very interesting. Uh, and then also, um, we just would love to be a part of the conversation and continue to be a part of the conversation, um, and encourage either amending or eliminating the 80th Percentile Rule, um, and that would really greatly, we think, help impact, um, healthcare costs in Alaska so thank you so much for, um, allowing us to comment this morning and as always, we're happy to, um continue to be a part of the dialogue if so desired.

Q: Thank you Shannon.

A4: Of course.

Q: Anna, do you have anybody in Juneau, uh, we'll take a couple of, uh, consumers or whoever you have in Juneau now (unintelligible).

Man: We didn't find nothing wrong with it.

Q1: Would you like to go ahead Nathan?

A5: So, um, thank you again. My name is Nathan Peimann, I'm a physician here in Juneau, Alaska and I'm testifying on behalf of the Juneau Emergency Medical Associates, um, in strong support of retaining 3AAC26.110(a), commonly known as the 80th Percentile Rule for determining usual and customary charges for healthcare services provided to Alaskan consumers. I'm a physician that's been practicing emergency medicine for the last 15 years in Alaska. I'm a partner in the organization that's served our local hospital for the last 30 years. I'm also married to a physician that's practiced internal medicine at Southeast Medical Clinic here in Juneau for the last 10 years. We both enjoy our practice in Juneau and have seen a significant

improvement in the medical care in our community since the 80th Percentile Rule was put in place in 2004. Moreover, we have seen significant reduction in cost to patients with this Rule, I never came and did medicine with a plan to administer or advocate but I am testifying today because I feel the 80th Percentile Rule would change healthcare in Alaska and would cost patients more and special care would slowly fade if it was changed in our state. I recall a gentleman I saw in the emergency department named Joe some time ago. He came in with severe pain and distress and in started quite suddenly in his flank, um, it had started there and he, we spent a few minutes, um, getting a history while we, um, did some interventions to make him, to ease his suffering. Once he was more comfortable we, uh, looked to finding the cause and in the end we determined that he had a large obstructing kidney stone that would not pass and would need surgical intervention. At the time a new u- urologist was in town and on- on call- on call to the emergency room here and was available, um, to help with this problem. Ironically a few weeks ago I saw the same person for an unrelated matter, Joe again mentioned his thanks for the interventions and referral to someone that was able to fix his problem here in Juneau. When speaking with the urologist at the time, I now realized that part of his lifestyle attraction of this kind to a specialist to our state was directly related to the 80th Percentile Rule and he was a success story for the state of Alaska when we looked at the 80th Percentile Rule has done. Joe, our mutual patient was served by this regulation with a quick local solution to a problem that until recently required out of town or often out of state travel via costly air ambulance. I also oppose repealing the 80th Percentile Rule because it would only result in payment reductions from one class of payers and that's the insurance companies. It would simul- it would simultaneously increase the burden of pay for the same patients the insurance companies represent in partial payment. Their reduction in pay, with its repeal, would unfairly burden the folks that would expected to pay the insurance gap with decreasing payments from the insurance industry. This is a cost shift away from the private insurance industry onto our Alaska citizens. The repeal of the 80th Percentile Rule does not reduce the cost of medicine; it only reduces the amount the insurance industry is responsible for. At the detriment to our patients and our communities that would bear the increase costs directly and unfairly. Further, as a provider obligated under the EMTALA, which is the emergency medical treatment and labor act to treat, I would have significantly diminished ability to neg- to negotiate industry, dominated by a single third party payer, with one other major player in the market. The healthcare field does not have a competitive range of insurance providers to allow physicians to adequate negotiate and power for best free market rates. While the insurance industry may claim that this will change with removal of this rule, no evidence suggests that we are an expanding market. Furthermore, as a whole, the industry across the nation continues to consolidate at the detriment of patients driving up the costs for insurance and markets such as our own. Alaskans come from a diverse background. Some are veterans, some have

reached retirement, others have jobs with no insurance and some qualify for state assistance assurance such as Medicaid. Joe could have been from any one of these backgrounds with the removal of the 80th Percentile Rule, he either gets in stuck in a system where the call by specialist is diminished because the specialist lacks their payment from the insurance industry and specials, specialists with no, with not, will not take this service, they will not service just government payers and uninsured alone. Furthermore, Joe's options for outpatient referral would be reduced as well for similar reasons. I will continue to see all patient regard, regardless of their ability to pay. I will help Joe out anytime he comes but I fear that my ability to help him will come at a much higher price to him and others like him if the 80th Percentile Rule is changed or repealed. If reimbursement for specialty services does diminish as a result, my resources to help Joe will diminish too. My colleagues that have sought extra training and become very specialized practitioners will not come to a place and they will not come to a place, and they will not come to replace people of such as urologists and cardiologists or thoracic surgeons when they leave. We in Alaska will seek more and more of our care away from our home and families; we will still bear the higher costs of medicine in Alaska, but without the benefit of specialists like those that helped Joe. Another new area that's, um, here in Juneau, that would likely disappear if the 80th Percentile Rule went away is cancer care. Several folks in Juneau currently have their cancer diagnosed in our city but then see a spec, a specific specialist outside of Juneau to begin therapy, but now they return to the town rather than stay away for duration of treatment that lasts several weeks to months. We have an increased ability to care for cancer with radiation therapy and oncology now available in Juneau. There's another at-risk, this is another at-risk specialty group that is here because our current reimbursement market. Repealing the 80th Percentile Rule would significantly impact that reimbursement and limit that service to our city in Juneau. Finally, I would say the biggest impact of patient, our state citizen, citizens, is not the 80th Percentile Rule, but the insurance gap that would widen if it went away. The insurance industry coined the balance bill or surprise billing that comes when the insurance industry only partially pays to a certain level of usual and customary. That individual insurance company said in an non-publically disclosed fashion, "This is the way the hard working people see financial ruin from unfair practices by the insurance company." I would wager that fixing this would be the greatest thing to do for Alaskans. I would like to be held to a regulatory standard not to balance bill, the insurance gap to our patients. If only and only if the 80th Percentile Rule is kept. This would ensure that we the Alaskans get the best healthcare in our communities and the insurance companies would be help to care payment without a specific insurance gap threat to our citizens. Thank you.

Q: Thank you Dr. Peimann. Is there anyone else in Juneau that would like to testify?

A6: My name is Amy Lujan and I'm representing the Alaska Association of School Business Officials and our association members are the people who, uh, work on budges and financial issue for K12 school districts across the, um, state. We also, uh, work in conjunction with the, uh, principles and superintendents' associations and this year in our joint position statements, uh, we are again crying out for help with the healthcare issues here in Alaska, which is just really driving, um, our costs very significantly, um, to the point where I'm now working on a study for the Commissioner of Ed, you know, how many teachers have we had to give up just because of healthcare costs rising within recent years and we want to let people know that this is, you know, you can have one thing or you can have another thing and we want to provide education but we're, uh, more and more of our costs are going toward healthcare. The is an issue we've been talking about for a long time, uh, just within the last, uh, few months is 80th Percentile Rule has come to my attention is I went to some, you know, forums on the, the topic and we, we put it in our joint position statements this year with the council school administrators to say please look at this because it appears to be, uh, driving a healthcare costs up in our state, and that's just something that is really choking you know, our ability to provide education so I'll have, um, more specific information about the numbers of teachers that we haven't been able to hire in within the last few years because of, of healthcare costs, um, you know there's only some so much money to go around. I don't claim to be an expert on healthcare issues, none of my members really want to be experts on healthcare issues we're more interested in, uh, you know, how we can provide patient for, uh, school districts and there's just so many things that my members have to juggle to be knowledgeable about but we're just really asking for help to look at this, um, and it seems striking that, um, we're the only state in the union that has this Rule, I understand Alaska has unique issues and etc., etc., but, um, you know, we're really crying out for help here to say please, um, if this is driving costs up and perhaps not serving us best, uh, we seriously, seriously need to take a look at it, uh, Dr. Peimann just now suggested some ideas, they're more ideas in this packet, you know, we, we would be happy to provide any information that would be helpful to the process from the point of you of, uh, employees in the state, you know our um, you know school districts are in every, every, um, town and village in this, uh, in this state. So if you require further information about what we're dealing with we're certainly happy to help. We're also contributing to the study now on, um, the healthcare authority, which is a study that's being done, um, through the legislative directions so, um, we're looking for help, we're looking for answers and again I'm happy to, uh provide any further information to my members that might be helpful. Thank you.

Q1: Thank you. Is there anyone else in the room that would like to testify? Okay, all right there's no one else in Juneau.

Q: Okay then we'll take it back to Anchorage and next on the list is, uh, Jonathan Coyle, from Alaska Radiology I believe, and next then will be Rhonda, after Jonathan.

A7: Um, after everyone else, thank you very much for taking up this issue. Um, I originally had a prepared statement but we did submit, I believe they just sent letters from my group of, uh, varying perspectives on this issue. I think that rather that we had prepared statements. I'd like to, uh, kinda step back and look at the issues a little bit, the insurance, uh, the issues, uh, this ruling was first brought about to prevent (unintelligible) billing and I think all that of us would agree that that's a good thing. I don't think anyone's, uh, (unintelligible) that. Uh, the, the ruling did have a secondary effect of, um, allowing groups like mine too look to the future to afford sub-specialty care, to plan for, uh, plan for a, a business model that would afford Alaskans the type of care that we all want. Everyone here wants Alaskans (unintelligible) care we can, and we all want Alaskans to receive that in Alaska. That's one of my groups mottos, to keep Alaskans in Alaska, um, part of my family worked on the Providence Cancer Center and that was, it was understood when (unintelligible) was brought under way, how important it is to keep Alaskans close to home. I think we've all had some experience, I personally had a friend two years ago who, she was a young mother, she developed a melanoma, she had, she decided to leave the state to, uh, get some exp- experimental treatment and so she went to Texas and over the next two years she pulled her kids out of school here, she was down in Texas without support structure, they were living in an apartment, her husband was having to come back and leave the kids unattended down there while his wife went through this, you know, very difficult treatment and she ended up passing away and sad as that is, we all know how much more comfortable she would've been up here, how much better it would have been for her kids to be able to stay in the school with their sports structures, with their friends and that is one of the things we aim for. This, this rule, we've been able to achieve much of that. In terms of when I first came to Alaska, uh, as a physician, there were a lot of holes when you looked into specialty, uh, medical specialties that were available. There wasn't much in the way of pediatric surgery, there wasn't much in the way of oncologic surgery when I look at my own group, the radiology group, we really only had two spec- two sub-specialties that we serve and now I'm proud to say that we, we are fully sub-specialized, we're the only sub-specialized group of radiologists in Alaska, we have, if you get a brain MRI it's read by a neuro radiologist. If you have a, a knee MRI it's ready by a muscular skeletal radiologist and as such, the patients are getting better care as a result and the same is true for all the other sub-specialists. In Alaska we've seen a puzzle with pieces that were missing, as a healthcare system. Those pieces have been filled in, in large part due to the 80 Percent Rule and so I really urge everybody to kinda step back right now and think,

what do we really want? What are we trying to achieve here? And I think what all of us would agree that we want to achieve here is quality healthcare for Alaskans in Alaska, and I think since the 80 Percent Rule has been part of that, uh, my group votes very much in support of the 80 Percent Rule. On a s- on a couple sidelines, one sideline is that, you know, not to bring Donald Trump's name into it but with Donald Trump coming up he has vowed to change the, uh, the ACA and since we don't know what the future is, I kind of wonder if now is the best time actually make changes in, in our own practices, in our own way we govern ourselves, until we see what the future holds. Uh, one other sideline point I'd like to make is everyone talks about the rising costs of healthcare and we physicians are not immune to it. As a group, uh, we have multiple imaging centers employing over 70, directly employing over 70, uh, people and we pay healthcare insurance for all those people and although my own personal charges ever since I've, uh, been a radiologist here in Alaska, our charges keep pace with inflation, 2, 3% a year. I can guarantee that my insurance costs have gone up significantly more than that so as a result I urge people not to just simply talk about healthcare costs, but to talk about insurance costs and where it's actually hitting our, our bottom line. So, uh, all of the other details are in our letters and I urge everyone to read those and I thank everyone for the opportunity.

Q: Rhonda? And it's coming up on the 11 o'clock hour, I just want to let everyone know, we will continue this hearing until everyone has a chance to (unintelligible) so there's no rush, we're going to take public comments, both on the phone, if anyone walks into Juneau you can certainly (unintelligible). Just a quick housekeeping note, if you are calling in online, please mute your phones until you, um, use them to testify. Thank you.

A8: Good morning director, I am Rhonda Kitter, a 40-year resident and a consumer of healthcare in Alaska. I also serve as the Plan Administrator for the Public Education Health Trust here in Alaska where I support 17000 members who are seeking health insurance policies as well as healthcare in Alaska; however, my comments are made from a consumer perspective. I greatly appreciate the work the Division of Insurance and the consumer advocacy provided by your office. I request the Division of Insurance replace the 80th Percentile Regulation with transparency requirements and use a reference based typing model, perhaps a percentage of Medicare to be a more equitable protection for consumers. Consumers participate in the cost of care in three ways. First, the premium for their health insurance policy, secondly their deductible and their out of pocket amounts. The cost of care is driving the cost of our premiums, which is affecting our employer budges and the employees' paycheck payroll deduction. As the premiums increase, benefits are decreasing through increased deductibles and increase out of pocket. When attempting to work with local providers regarding their cost, I freq- frequently run into the statements, "We can't tell you how much it will cost,

wait until your insurance makes their payment, then we'll tell you how much you owe us." The doctor can charge whatever he or she wants, the state of Alaska mandates they pay at least 80%. We are the only providers in a community of this service. We can charge whatever we want. The consumers are not protected with the current language of the 80th Percentile Regulation that is driving the cost of our premiums. The 80th Percentile allows providers to set high expectations of payments with no relevance to cost. Replacing the 80th Percentile with a transparency ruling where fees are posted prior to service would assist in addressing and engaging, educating consumers of the cost of their care. Eliminating the 80th Percentile as the billed charged amount, which drives the usual and customary tables and replacing with a reference based model of percentage of costs is billed out billing to the patient would protect me, as a consumer. The providers in our community are a valuable and needed resource, my hope is that all participants, the patients, the providers, insurance and the state of Alaska to work together on finding an equitable solution. Thank you for your time director and hearing our comments on this important matter.

Q: Next, uh, I'm going to- I'm going to take one more comment from Anchorage and then go back to the phone and I have Anne. Anne? Anne, (unintelligible) is that correct? (Unintelligible), Anne you have the floor.

A9. Thank you for this opportunity to address this important issue. I'm Ann Flister, I'm the, uh, representing PND Engineers, we're an Alaska based civil engineering consulting firm with our headquarters in Anchorage. We've been here over 36 years and now have offices in Juneau, Seattle and Houston, Texas. (Unintelligible) rely on a robust benefits package and quality healthcare coverage to attract that talent and maintain it in our firm. Over a 5-year period from 2010 to 2015 PND's cost to provide healthcare to our employees more than doubled from under $500,000 to over a million dollars. Over the years we've had to ask for employees to share these additional costs in the form of increased premiums, increased deductibles and greater co-pays. These excessive overhead expenses make it increasingly difficult for our firm to compete with out of state companies that are able to provide employee benefits at a much lower cost. We're concerned that the disproportionate price of Alaska healthcare and its rate of inflation are unsustainable and (unintelligible). Thank you for your time.

Q: Okay, this is Lori Wing Heier, is there anyone on the phone at this time that wants to offer public comment?

A10: This is, uh, Karen Perdue in Fairbanks.

Q: Hi Karen, you've got the floor.

A10: Thank you director. Um, I am speaking today as a long term resident of Fairbanks, Alaska and I serve as a trustee on the Fairbanks, um, Hospital Foundation and our newly formed Fairbanks Foundation Health, as you may know on January 1, um, a local, our local partnership, uh, assumed control of our entire healthcare system, uh, as it relates to the hospital, um, our long term care, our, uh, Tanana Valley Clinic, uh, hospice and homecare resulting in about 1600 employees now working, uh, for our local organization. I wanted to mention, uh, a couple of things about the differences in regions that have been already, uh, mentioned in testimony and, and advise extreme caution as, uh, Mr. Lynch mentioned, uh, about the impact of this rule in markets where there are just a few, uh, or maybe one provider providing very essential specialty care and I also wanted to emphasize to you through the rest of my testimony how in our community and across the nation, hospitals and providers are aligning, uh, so that, uh, professional fee issues relate to the public health picture of a community as well as to individual practices, especially in small community hospitals. Uh, the, the foundation often acts in, in Fairbanks as the public health entity along with Tanana chiefs because there is no, uh, state or municipal, uh, where there is no municipal public health entity so we deliver many of those things that a community needs that don't necessarily pencil out, uh, for, we employ 105 providers at this time, um, roughly and many of them, most of them in our multi-specialty, uh, clinic, which is Tanana Valley Clinic, which I believe is the largest multi-specialty clinic in the state. TVC, um, Tanana Valley Clinic, for instance, takes all Medicare patients in our community who wish to come there. Our panel, I think it's around 5000 patients, uh, which is virtually every Medicare patient in Fairbanks. Uh, we do that because it's in our community interest but we lose millions and millions of dollars in doing so, so there's an example of how the Foundation re-distributes, um, uh, revenue to, uh, meet local needs, um, we have helped recruit about 60 new providers to our community over the last 5 years, often in the areas of very limited or no service, uh, our, our very large recent efforts have included cardiology and cancer and like Juneau, we've, we've only recently in the last decade developed, uh, local entities that can prevent our patients from traveling, uh, to Anchorage for service. Uh, so we are an employer of 1600 people and we are also a provider of care across the continuum. The professional fee policy affects absolutely our, our ability to provide, uh, care to our whole community, um, many of our investments in infrastructure, such as our new surgery project, new equipment, are built on contracts that we have and certain revenue pictures that we do have, um, and we, we project that out to our bond holders over a course of, uh, many years in the future so any changes in, um, areas that would impact a small market like ours in terms of professional fees, would really need to be totally scrubbed to see if we could meet our investments, our, our commitments to our investors, uh, in terms of capital infrastructure and equipment and the contracts that we hold with providers. Uh, so I encourage extreme caution, I encourage to look at the issue by regions, it is absolutely not true that we have no specialty

problems in, in Fairbanks, we have daily issues with people not being able to receive the kind of care that we would consider, I think, basic in Anchorage now, uh, in our community and so I understand the pressure, I understand the, the cost pressure that employers are feeling, but this is an integrated picture and we as a community health system would stand ready to work with you on a more specific basis about what impact that, those changes might have in our ability to deliver an overall healthcare picture in our community. Thank you.

Q: Thank you Karen. Is there anyone else online that would care to testify at this time?

A11: Yes, this is Jim Blakeman.

Q: Hi Jim you have the floor.

A11: Thank you. Uh, I am the Senior Vice President for, uh, EGO, a billing and consulting and practice management company working exclusively with emergency physicians in 16 states, but we happen to manage the practices who see more than half of all of the patients who present to emergency departments in Alaska. We have the opportunity to see the effect of the 80th Percentile Rule, uh, and observe how balance billing and fair payment rules are occurring in other states and how they impact emergency medicine, that's our principal concern, um, but I will point out that emergency physicians, uh, have a particular passion about this subject because they see, quite often, the failures of the healthcare system to deliver, either access the care or quality of care, patients who don't get their Asthma medications typically come to the emergency department when they begin to, uh, (unintelligible) their decline. Uh, patients who don't get Diabetic, good Diabetic care, patients who struggle because they don't have access to good specialists and get good cardiology consults or GI consults, commonly show up in the emergency department so what I find working with the emergency physicians of Alaska in particular, is that they have very great concern about public health. Um, they also have a concern about the access to specialty care, which is one of the stopping points shall we say for good emergency care. If that patient presents with a serious illness and the patient needs to be admitted or be treated, um, by a specialist but no specialist is available and I think you might hear testimony or read testimony from other emergency physicians who will comment on problem of access to care, uh, there weren't, there simply weren't enough beds in Anchorage a, a few weeks ago, uh, to see emergency patients. Every hospital in Anchorage, um, their emergency departments were full, there was, uh, and where were those, why were those patients there? Because they didn't have access to specialty care and be able to move the patients upstairs so there is a concern about access to care and we think the 80th Percentile Rule has performed very well to allow Alaska to, to, um, recruit and retain certainly qualified emergency physicians, that point I can speak to because I know

many of them, I might even say I probably know most of them, um, very well trained, uh, and able to recruit and retain high quality emergency physicians because the reimbursement structure is there. Um, I, I do want to mention that, uh, our firm and, uh, and my personal position and what I've seen work elsewhere in the country is that, um, they're payment regulation like you have in Alaska, the 80th Percentile Rule, um, should be accompanied by a reasonable balance billing ban um, we believe that, uh, and, and I think I speak for some if not all emergency physicians, I know I don't speak for all but, but for many, um, a ban on balanced billing says that if he, if you are reimbursed at the 80th percentile of charge, that's a reasonable payment. We can live, that is the emergency medicine community, and we think most specialists can live at that rate, um, and it's a reasonable amount. Burdening the patient with the additional probably isn't unreasonable and it, it provides a, a good cap on what we all know and hear are the antidotes about, um, over charging. I, I know personally of an example of a patient who was charged $77000 for a surgery that Medicare would have paid $1000 for in Alaska. Those antidotes exist. I'm going to point out that antidotes don't typically make good policies but we know that this happens and so how do we protect that? The balanced billing ban would actually do that, it would, uh, so I'll take you through a couple of the concerns I have, uh, I'll try to be brief here but, uh, let me speak specifically to the problem of moving to a, a Medicare payment standard as fair payment, um, I've got a number of points here but I'll move through them pretty quickly, uh, first of all my first concern is that it is not a standard, uh, related anything to market conditions. Yes you could adjust for geographic costs but the intrinsic nature of the Medicare RVU system does not recognize disparities in specialty or training or cost of care in a region and they're not market considerations. Medicare payments are driven by congressional budget considerations, entirely unrelated to Alaska or any state frankly. Um, so I, you know, I wouldn't trust the fairness of the Medicare loan to value and payment system going forward as a means or mechanism for establishing any state's, uh, fair payment standard and as I look around the country at, at balanced billing and fair payment laws around the country, very few have gone to a Medicare percentage arrangement. Um, other concerns, conversion factor is already fixed at 1/2 of 1% for the next 5 years so we chose a Medicare standard, no one in Alaska gets an increase, uh, about 1/2 of 1% and then after 5 years it goes down to .25 and it also introduces under MACRA a, an up or down adjustment of 9% so that, you know, we're going to run into problems of what even is the Medicare approved amount. I'll also point out that relative value unit considerations are done, uh, principally from a political perspective, that is, um, I know a little bit about how the relative value, uh, system works and it's a highly, uh, politically charged extensive public notice about that, um, um, some specialties win and some specialties lose based on politics that really have, uh, in many cases, very little to do with the intrinsic cost or, or, or value of that service. So we think that, uh, it's not a, a strong fair payment standard, uh,

from that perspective, um, and, and Medicare in Alaska, uh, was given a gift by, uh, the, the senator, the great senator Ted Stevens, uh, who, who, uh, got Alaska payment to increase I believe by a, a factor of two, uh, over the rest of the country, uh, and put that into law and it is a permanent, well always permanent until congress decides to change it, but right now Medicare payment is twice, uh, in Alaska, twice what it is in other parts of the country, um, but with a stroke of the pen congress could simply say, uh, that no longer applies and now all physicians in Alaska will suddenly experience a, you know, a cut in half of their reimbursement. Um, as that, so there's that comment about, uh, doesn't the 80th Percent Rule, uh, isn't it inherently inflationary? And yes it, because it's driven on charges it does have, uh, a, a component that reflects market rates and market costs. If I believe I need an increase, yes I charge more now and, and the general market of all of the services get increased in two years or whatever the date, uh, becomes clear so there is a component of that. But what I would argue is that the, the, uh, relative impact of that has been dramatically less in Alaska then what we've seen elsewhere in the country and I'll give you some data, uh, the level 5, which is the highest most complex thing that an emergency physician would charge for, in Anchorage and, and in Fairbanks too, um, the, the 80th Percentile is about $1000, that's about what an emergency physician charges for the most complex thing done in Anchorage and Fairbanks and I believe it's even in Juneau about that rate. Same service in Seattle, lower cost of living, $1100. Dallas, Texas, maybe a 40% reduction in cost of living, that service is almost $1500 in charges. In Miami it's $1800 and little old New Orleans is almost $2000 for the same service. Now what do we see? Why are they charging so much more than, than emergency physicians in Alaska charge? Because they don't have fair payment laws so they gotta, they gotta milk the, uh, uh, the few payments or few patients or the few insurers that still pay a certain percentage of charge in order to get a compensation level that they can live with, the, the government, you know, fees, uh, will change from time to time but they're never going to cover the cost, the actual increase in cost. In Alaska we observe that doesn't happen, it doesn't have to happen because emergency physicians are fairly paid today so if we move to a Medicare standard that then compromises how much, uh, an emergency physician or any physician could be paid, there is a very clear incentive to then adjust their lifestyle, so we could comment, we're going to reduce your costs you should adjust your lifestyle, the concern is they will adjust by moving out of state and, and, uh, so some have asked for evidence of that and I would hope that we would never get to the point where we would have to have evidence of providers leaving the state of Alaska because they no longer find the, um, the, uh, compensation level adequate to adjust for some of the hardships. It's a wonderful place to live and work I know that, uh, but not everyone shares that and, and to the same degree and would like to be paid a little more to work in Alaska. So we're concerned that market forces might actually, um, change the way healthcare is delivered, it would put a pressure

more on emergency, and you'll frankly see, um, you'll see an increase in emergency visits, that's what patients do when they, when they can't get access elsewhere, uh, they come to the emergency department because as you all may well know, we have no ability, nor frankly any interest in turning away any patient for any reason whatsoever related to payment. If they can't pay their bill they are still welcome in the emergency department. We'll, we'll see them and treat them 24 hours a day, 7 days a week, 365 days a year regardless of payment. But what we're asking for is a reasonable, uh, balance billing law that is tied to the 80th Percentile, so we're, we're going to advocate that balanced billing, um, be part of the Alaska, uh, Department of Insurance regulations but, but related to a fair payment that assures reasonable market based compensation for, for treating physicians.

Q: Thank you.

A11: Thank you for the time.

Q: All right, we're going to go back to Anchorage and Jennifer you're off, up and, uh, to be followed by Tim Silbaugh, is that correct?

A12: Thank you. Uh, thanks for the opportunity to (unintelligible) attention, um, I'm Jennifer Meyhoff with Marsh & McLennan Agency, uh, I also am involved in the legislative committee of Alaska Association of Health Underwriters, um, we've been actively, actively engaging this issue amongst others that are, um, we feel driving costs of care in Alaska. I work with many employers around Alaska as they're trying to figure out how they can afford to provide, uh, medical insurance to their employees so, um, we are constantly trying to take a look at what is the copay they're going to be charged, there, or, or premiums that are charged employees so the premium, they're having to pay for that coverage, their increase in deductibles, out of pocket maxes, to try to, uh, figure out a way to help their costs and help the employees costs but what we found and what we're concerned about is really the, um, insurance premiums are driven by the cost of care and so the cost of care, what we've seen are, you know, going up, um, unregulated we feel, because the 80 Percentile really is, uh, setting no, uh, no base and no top, uh, to the costs that could be charged. Um, interestingly enough it also can (unintelligible) increase, uh, twice a year, which is interesting because really none of the rest of us have increases twice a year necessarily. Um, and it seems to be, uh, that there is, the, the balance billing has not been (unintelligible) as a result of the (unintelligible) that the opposite has occurred, um, there's plenty of surprise bills, I personally have had some similar (unintelligible) shares here today about, uh, being balance billed, um, even though care was, um, was provided in a way that we thought was agreed to in terms of charges, uh, a report by the Counsel's Community of Economic Development or (unintelligible) research in 2014 named (unintelligible) in Alaska that are high (unintelligible), uh,

related to the cost of care in Alaska is highest in the nation based on, uh, also the Alaska Health Care Commission, um, (unintelligible) and what we've seen is that, uh, underlying healthcare charges, um, are, are being driven by the 80th Percentile up to 3 to 6% per year (unintelligible). Uh, interestingly enough I actually had a conversation, uh, the consulting firm that's working with the, the Department Administration (unintelligible) medical plans that are provided by the state (unintelligible), um, and speaking with that firm and (unintelligible) he shared his opinion with me the Percentile Rule does exactly the opposite of what you said by, by driving this, the increases again, um, without (unintelligible). So, uh, I believe that the Division of Insurance should amend, uh, the 80th Percentile Rule and, uh, and consider a, uh, reference based pricing model as a, well being able to allow for and also consider balance billing (unintelligible). Thank you.

A13: Thank you for the opportunity to speak, uh, I am, uh, Tim Silbaugh I'm the, uh, here on behalf of the Alaska Emergency Medicine Associates and am submitting a letter, which I provided today and online, uh, in strong opposition of repealing AAC26.110, the 80th Percentile Rule. Uh, I'll try to summarize my points and will be stating what I provided in written statement, um, a background. I'm the Business Manager of this, uh, Alaska Emergency Medicine group, this group has been working at Providence Hospital since 1980 and we are the largest and dominant provider of emergency medicine in the Anchorage area and in the state. Um, we do, uh, emergency medicine care at Providence, we do local EMS service care, we do air medical transport care and we provide support for the physician assistants who provide rural care throughout the state, uh, notable on the North Slope and in other rural locations. As a group we've been dedicated to providing the highest quality care for the state and been committed to patients, getting patients access to critical care. Now the second point, all of us who've been in Alaska a long period of time know this is an unusual and tight community. I moved up here in 1989 without a job, I wanted to grow up here and, uh, became a high school teacher, taught at West High, um, at that time I was involved in sort of leading the community from a teacher perspective. I went back to medical school through the WWAMI program and then returned to the state in 2002 where I've been working since that time as an emergency physician. My role in this job clearly has been to maintain healthcare access for patients in the community in an area where the underserved and uninsured get their care, and that's one of the key points of emergency medicine. So when we look at the specific rule here, the balance billing rule, my perspective is about how this affects the patient experience, how it affects the patient's ability to get care and ability to pay for care, which is the real issue and we've talked a lot about data points, we talked a lot about insureds, we talked about how people (unintelligible) plan. When it comes to the ability to pay, the 80th Percentile Rule sets in place a fair and reasonable and transparent rate because it's based on fair health, you can look up the fair health and if that rate is paid a balance

bill is really not necessary. And we're not talking about 80% of the bill, which was then used, if I didn't already misrepresent it, we're talking about the 80th percentile of an established fair and abusing (unintelligible), um, so a couple examples where this becomes important, in EMTALA, we, the EMTALA is the requirements that, um, patients be seen without, uh, regard for ability to pay and that specifically affects patients who come to the emergency department or seek hospital admission. So in my practice we're governed by EMTALA and so what that means for my practice is that a large number of the patients, more than 50% will not end up paying their bill so of our bill, less than 50% are paid. Now the remainder of the bills that are paid by insurance, we set a fair health rate, we use the fair health system and we stay within national levels of that fair health such that those providers are getting a fair (unintelligible) but not an unnecessary compensation. And that, that distinction is very important because what we're talking about is having a clear and transparent fee schedule, which can compare with other states and it can compare local. Second issue that's very important with this, aside from EMTALA, um, is the concept of a balance bill. The balance bill, and this one has been very confusing to people because you know, medical billing is confusing. There is a copay, that's not the balance bill. There's a patient contribution, that's not the balance bill, what the balance bill is the difference between what you are billed, or paid for by your insurance and the physician approved for providers saying hey, that wasn't enough, we're going to pay to a higher rate above and beyond the copay the patient, uh, the patient contribution and that's what comes as a surprise bill because everything's paid, I've paid my copay and now I've got an additional bill. Now the point that's key here is that if you are setting, as we do in our group, a rate that's under the 80th Percentile, then there is no need for balance bill because you set a rate in place, the bill falls in that rate and there's no need for balance bill. Yes, you could manipulate the system and I'm sure anecdotally providers have and driven that up, but it's transparent because you can see the rate so the next point is what are the rates? And so I've submitted here, as Jim Blakeman did as well, the fair health data for 80th Percentile rates for Alaska, for this fee is, you know, fees in medicine are confusing, it's called a 99285 and what this fee represents is a fee for someone with a heart attack, a cardiac arrest, a very sick patient in the emergency department and that fee is reported in fair health and the rate in our group, as I said, is the dominant (unintelligible) in the state, which means that if we set a very high level, that would show up in a few years in fair health and we would manipulate and falsely inflate the rates, which is a concern. So you can look and say, well has that happened? The rates we currently have in Anchorage, which is where we practice is 1021, the highest rate in state is Ketchikan at 1340 and the highest, not the highest, but the high rate that I report nationally is 1920 and so almost, uh, 80% higher so our rates are locally, within Alaska, similar within the range and nationally actually below the range and that's because when we set this, we are local Alaska physicians who care about the community and we're

picking up fare health rate knowing that I'm billing people I know and that that rate has to be acceptable and I don't want to send a balance bill, 'cause I don't want to get a balance bill. The last thing about this has to do with the effect of balance bill on the healthcare of Alaska so some of you were probably here in the 80's, I moved here in 1989 and there was a doctor named Dr. Dempsey and he was one of the classics, so I don't even know if it's true, but it's an urban myth many of you know, so he was the only neurosurgeon in town, the only neurosurgeon in the state and he reportedly drove around wearing a football helmet because if he had a head injury there was no on there to operate on him. Kind of a cute story, I don't know if it's true but it's definitely been going around a long time. At that time though almost everyone talked about going out of state for healthcare. People went to Virginia Mason, that was the classic place, "Oh I'm going to Virginia Mason for my healthcare," or they went down to, you know, Mayo Clinic because you had to leave state to get good healthcare and there are a lot of things the state has done to change that and I was here during those changes, the WWAMI program, big things like Doctor Sack, I went through that program, um, but also balance billing and balance billing allows for people to bring here, the doctors we do want in-state, so for example, and people say well that's not, we don't need that now. Right now we do not have cardiac thoracic surgeons adequately covered in the state so a cardio thoracic surgeon is the person who would save you if you ruptured your aorta, ripped the blood vessel in your heart. Now if you rupture your aorta you really don't have time to fly to Seattle, I mean what basically that means is if you have a ruptured aorta and you don't have a cardio thoracic surgeon you'll get pain medicine and we'll try to transport you and you'll have a very high expense in the public eye. Now we are recruiting people and working to do that and the people, you know people (unintelligible) a cardio thoracic surgeon, you know, they, they, they function better in a place where there's a lot more population so it's easier for them to work and have a successful practice in a very populace place like Seattle. Now if you want the cardio thoracic surgeon up here, you have to be able to tell them before they come what their rate of payment is going to be and they can look at their health, they can look it up online and say this is fair health, this is 80th Percentile, this is what I'll get paid. So right now we have an issue with improvement and we need to maintain that, um, basically leaving that to the side, um, Alaska Emergency Medicine Associates is a group that's locally owned in town, we are a dominant group, we are one of these groups that could manipulate fair health and we don't do that and I stand very clearly in support of the existing 80th Percentile Rule. Thank you.

Q: Next up in Anchorage would be Allen Hippler.

A14: Thank you. Thank you Ms. Wing Heier, um, so my name's Allen Hippler and I'm representing myself although I'd like to say that today I'll try to represent the free market to the best of my ability, um, in the past I was a commission

on the Alaska Healthcare Commission although that commission no longer exists so I'm not speaking for them. Um, so I'd like to defend the free market here and this is, this regulation was instituted as a consumer protection but what it really does is it deprives insurers of the freedom to sell the kind of plans that they might want, and it deprives me as a consumer, from buying a healthcare plan that doesn't cover to the percentile that perhaps a state bureaucracy thinks it should cover. This shackling of insurers destroy the ability of the free market to allocate resources and set prices rationally. So, to that end, I would advise eliminating this regulation. Now when you ask a free market economist what do you do about a regulation that is in place that acts as a price for and distorts the market, the answer is really simple, it's always the same and it's frankly boring. It's the elimination of the price war. You eliminate it and you walk away. When you ask a state bureaucracy what do we do when a price floor has caused problems? The answer is never very simple. The answer from the state bureaucracy is always institute a new web of regulation involving price floors and price dealings that will continue to protect the consumer. But replace, so replacing a price floor with a new web of price floors and price ceilings won't necessarily solve the problem because it continues to deprive people of freedom and it deprives the market of its ability so set, uh, to, to set prices and clear the market. Um, the, and, and I, and I would further state that if this regulation is dep- , is supposed to be a consumer protection, do we think, candidly do we think that this regulation over the past few years has adequately protected consumers? It's supposed to prevent balance billing and anecdotally, right? From both testimony we've heard today and from our own experiences in our own lives, I think the vast majority of us will agree that this regulation has not really protected consumers. Um, so, uh, thank you for listening and, um, I would encourage a solution to be simple and increase freedom rather than decrease freedom since that's what may be arbitrary price control on providers, insurers and consumers. Thank you.

Q: Thank you. I'm going to check in with Juneau real quick, Anna do you have anyone there that wants to testify? Has anyone come in since we last checked in Juneau?

Q1: I don't believe so but let me just quickly glance around the room. No there's no one else here that would like to testify.

Q: Okay I'm going to back to the phones for a minute. Is there anybody on the phone that wants to testify?

A15: Yes, this is Dr. Reed can I testify?

Q: You, you've got the floor sir, Dr. Reed.

A15: Thank you, I appreciate you, uh, taking the time to have this discussion today, um, I'm Dr. Reed I am, uh, also with, um, Alaska Radiology and Imaging Associates. A colleague of mine spoke earlier, Dr. Coyle and I concur with his statements. I actually submitted a much more detailed written response, or written statement that I'd appreciate if the Commission, uh, would review in detail after the hearing at some point when you, uh, when you go through all those things but I've heard a number of things during today's comments that I feel the need to comment on further, uh, first to preface my comments today I'd like to point out that I'm a muscular skeletal radiologist, uh, one of a few in Alaska, uh, and uh, our group, Alaska Radiology Associates and our imaging centers, uh, are in network with every major private payer in Alaska so we have, actually for as long as I can recall, been in network with the, with the private payers. Um, this is not just an out of network, uh, problem, um, we are deeply concerned and I am personally deeply concerned about any changes that could be made to reduce access to necessary primary and specialty care, uh, for Alaskans in Alaska. I've been here 10 years and in that 10 year period of time I've seen a, a state that went from basically having to refer, uh, most of specialty care out of state to travel, lost work, move families, um, to a place where many of those gaps have been filled, uh, unfortunately they've not been filled very deeply yet, um, in many cases the loss of one, two or three folks would eliminate those specialties altogether. As Dr. Silbaugh commented on there are some specialties that still are completely and adequately covered in Alaska, even after 12 years with the 80 Percent Rule and I think as both a consumer and physician protection so, um, back to, back to us being in network, uh, we're grateful to be able to afford to offer unlimited access to our government beneficiaries as well, that's all of them, Medicare, Medicaid, Tri-Care, VA, um, you name it. Uh, we provide quite a bit of work as a group, uh, for the, uh, the, the, uh, Alaska Native Medical Center as well, uh, supplementing services that they are unable to recruit for or offer internally and we're proud of that as well. Um, like the, uh, like my emergency room colleagues that have spoken before me from Anchorage and Juneau, um, we are the largest, uh, radiology group in Alaska. If we so chose, I supposed we could manipulate market pricing but we don't, like I said we are in network and as a result we don't balance bill, um, we'll comment on that a little bit more later. Um, I also wanted to comment on the fact that there is, some of the reasons I wanted to call on this because I've heard some, some misstatements or mischaracterizations, probably due to misunderstanding because it is confusing but, uh, as the Commission knows the 80 Percent Rule, uh, does not guarantee providers in Alaska are paid 80% of whatever they charge, uh, it guarantees that, uh, the 80th Percentile of, uh, charges in the community, uh, the usual and customary charges in the community is used as a benchmark, floor plans, so that if you have a plan that covers a percentage of out of network care, that that out of network care, uh, price, is at least at the 80th percentile of charges in the community, so the top 20% would be, would be discarded and then you're at a level at which the plan would, would base

its, base its payments on so it doesn't guarantee that any charges would be paid in full, um, if, if someone did dominate the market, um, also I'd like to state the, the 80 Percent Rule does not prevent insurers, as I recently heard, from offering, uh, products that their consumers or they would like to offer. The Affordable Care Act does that so an educated reader of the Affordable Care Act from its inception, uh, knew exactly what the ACA was designed to do, it was designed to turn insurance markets into an expensive prepaid health care option and it's done that so as a business owner myself, um, our practice employs lots of folks across Alaska, um, we provide care for patients from Seward to Nome and, um, as, as a business owner myself we've seen our health care costs, it, our health care insurance costs skyrocket, just like everybody else so when I hear from local businesses, uh, labor representatives, uh, the, the school teachers, we're in the same boat, we feel the same thing, maybe from a different vantage point because being in the system, being that this is, this is our, our life, this is our business, we understand why the costs of insurance have gone to where they are and we know where not to point fingers incorrectly, um, the cost of band-aid's, um, hospital stays, physician visits like ours, have not skyrocketed at the rates that insurance has so we know when our insurance rates go up 15% a year and this year we're buying crappier insurance than we bought last year, we know that it's not because our costs went up that much and it, and, and, and the statements I've heard about, um, you know, physician's costs are driving the insurance costs. We know that that's not the case because we're here and our friends are in this with us and we talk to them every day and we're all concerned about what's happening to insurance costs but we also know why it's happening. Most of these increases have seen, it's just in the last few years, I've heard three, four, five years people have really been suffering, like, us. Because of the Affordable Care Act, the fact that that act alone eliminated the ability of insurance companies to balance risk to bundle, uh, risk classes together into different groups that had different rates, it eliminated their ability to tailor insurance products to offer true catastrophic care for people that wanted it. Meanwhile the ability of people to save tax-free money for their own healthcare costs, uh, through HSA's has not changed dramatically while out of pocket costs have risen dramatically but again, there's a difference between skyrocketing insurance costs and physician costs and at a time when the Affordable Care Act is going to be changed substantially, we're all very hopeful as providers, that that will once again, allow the insurance markets to function like insurance markets, for products to be tailored for consumers, for, uh, people to be able to buy what they need to buy and to, um, to budget accordingly. Um, I've heard comments about the fact that there's no transparency in pricing in health care and there's no guaranteed outcome, you don't, you don't know what you're paying for. That's not true with our practice, I think that, I think that we're one of, uh, if maybe, maybe not the only, maybe the only, uh, imaging centers in the state that offer true transparency in pricing. We actually invested in a fairly expensive, uh,

software package, when patients come to our offices, we can tell them exactly what their exams are going to cost. We can tell them down to the dollar based on the plan that they have, their contracted rate, how, whether or not they've contributed to their deductible this year, what's left, they know exactly what they owe and we've been doing that for some time now. So there is some transparency in pricing out there but partly it's hard, it's hard to come by because the system is so complex but it's not complex because of the 80 Percent Rule, the factors that made it complex need to be addressed but they're not affected by or addressed by the topic of discussion today. So I wanted to, to state that, um, the other, and I guess another comment I would say is paying for what you get or knowing what you're getting when you, when you buy something in healthcare is not the same as when you buy a car. When we're born we all have a date with the ground, healthcare is designed to make that life in-between as healthy and as productive as possible and as long as possible, um, that's what we're paying for. Unfortunately, even when we talk about this nationally let alone in the state, there are no guarantees in life. When we perform the best possible care we, we can on people, we can't necessarily control what they do when they're on their own or how their body responds so, uh, I don't think that it's a practical discussion long term nationally or in Alaska to really, um, uh, expect that when we pay for a certain level of care we know exactly what the outcome will be because there are way too many other factors in life, in health, uh, in individuals and their home environment and their social environment to really, to really make that a practical discussion. Um, I'm also a free market advocate, like others I've heard spoke, speak today but healthcare is not a free market unfortunately, um, half of our patients, over half of our patients are currently government beneficiaries and the government, for a long time, has determined, even in Alaska with the Alaska Medicaid system, to not pay fairly and to cost shift to private payers, that's the system that we have unfortunately and that has nothing to do with the 80 Percent Rule but it certainly has to do with how practices in Alaska have to budget if we want to see all of those folks, uh, and we do want to see all of those folks and we want those folks to be able to move on and get excellent sub specialty care from primary care right onto, um, treatment and we can do that in most areas now but we haven't always been able to. Like some of the other labor groups that I've heard speak, I'm worried about attracting good people to Alaska for our businesses; it's very difficult to recruit here. Something I personally didn't believe or really understand, I absolutely love Alaska and, uh, and when I began having to get into the roles that our businesses where I had to recruit people and I heard the stories about the difficulties that it would be, I didn't believe it but now I've experienced it for, for quite some years. It is very difficult to recruit good people here. I'm sure we are not alone, I'm sure all of, uh, big industries around Alaska, big and small businesses alike, have difficulty recruiting talent. How much more difficult would that be if they could not honestly look people in the eye and say that there was quality healthcare available here?

What would Alaska become if access to specialty care were to disappear again, like it had been in the past? Would we be able to recruit the same professionals? The same families, the same skilled laborers? There's a lot more to the discussion than just the cost of healthcare insurance, um, we have to consider and, and be cautious about as we look at repealing or changing significantly this particular protection that's in place. Um, again, in going through some, some notes that I had taken when I listened to the testimony this morning, so, uh, my written statement might be a little be more, uh, coherent because I'm trying to respond to different things that I've written down here but, uh, there was, there was one other point I remember early on it was stated that this is, Alaska's unique and that this is the only state with the 80 Percent Rule, well that is not the case. In recent years large east coast states, New York, Connecticut for sure have adopted very similar rules because they've seen the wisdom in the protections that it offers. So this, we, we may have been ahead of the curve because of our unique geographical isolation here but we're, we're certainly not alone and others are jumping on because they want what we have so at a time when the ACA, which has driven up insurance costs into the stratosphere for all of us, including me, uh, is about to be altered significantly and at a time when others are looking at what we have and adopting it, we should be very cautious about the ill-conceived side effects or ill thought side effects of, of just, um, significant, of just repealing the rule altogether. Now like I mentioned we're in network, we don't balance bill, uh, we want fair payment for all. We don't want to see people have, uh, astronomical bills left over, um, I think when we talk about a balance billing, um, uh, cap or limit that is, um, extremely, um, extremely scary for Alaska, Alaska healthcare if it is not in the setting of a retained 80 Percentile Rule. I would agree with my other colleagues that in a setting of a retained 80 Percentile Rule, that is actually, and this is me speaking as, as, as Chris Reed not as a representative of any entity, but if, if we are talking about an 80 Percentile Rule that is retained and is actually, uh, defended by the state, that the Commission actually holds payers to that 80th percentile and, and, and makes them prove that they're actually paying according to 80th percentile of local usual and, usual and customary rates, um, then balance billing should not be an issue. There would be no reason in that situation to not, not, uh, be satisfied with the, uh, reimbursement level that would be afforded, um, I think that there are some concerns that I've heard from colleagues of mine around the state that that's not happening now, that the 80 Percentile Rule is being ignored in many areas and it's not being enforced. If it were to be enforced and were to be retained, um, I, uh, think that, uh, that, that there should be no reason personally to, uh, to send out a bill to a patient over and above that level. Uh, so I, uh, I appreciate your time and I'm sorry I, I took several minutes of your time in addition to the letter that I submitted but I just felt that these were some things, um, that just needed to be clarified or addressed based on testimony I've heard and, and I'll, uh, I'll put my phone on mute and, uh, and be quiet.

Q: We, we appreciate you calling in Dr. Reed. Next up, uh, Gina and then it's (unintelligible) and I, then I have, just so we know what we're doing here, uh, Josh and then it's going to be Mike, your turn. So Gina?

A16: Thank you director. My name's Gina Bosnakis I'm a lifelong Alaskan, I was born in Fairbanks, um, 1958. I'm an employee benefits broker, um, speaking on by, on behalf of myself and my, my business, but not my association. I work primarily with rural school districts and small, um, private companies in Anchorage and I work regularly with family members, um, employees of my clients and, and their families and, um, I, I've seen (unintelligible) provider rates increase what they charge, um, for care (unintelligible) just one year and the employers who I work with struggle, struggle to pay the corresponding increase in insurance premiums due to those increased doctor charges. I do truly believe that they do correspond, price, the, the, the rates that the insurance companies charge, I believe do, are driven by the charges with the doctors. Um, my clients often have to really think through whether they can continue to pay for health insurance for their employees or not or just drop it and leave people to figure it out on their own, but that's just an 80th percentile regulation as a primary driver of the high cost of health insurance and healthcare but it's unknown to the vast majority of people and it creates a lot of confusion and the stress, um, what happens is employees and their family members in our state to go to out of network providers, include, they include balance billing, higher co insurance because co insurance is percentage that they pay after the deductible has been met and higher deductibles because the insurance rates are truly a reflection of the cost of care, which all of that money comes out of pockets of the employees and the families and I think people don't really think about that that often because this is a con- consumer issue and whether they're balance billed, whether their co insurance amount, their 20% or whatever, whatever it happens to be is higher because the charges are higher from last year. It all comes out of the patient's pockets and then in addition to that the employers are struggling with how to just maintain keeping the insurance because it keeps increasing so much so the deductibles are higher so that all comes out of the pocket of the consumer. So the goal here to, um, for, for my perspective is to just put something in place, um, that will address, and treat the, treat the providers fairly, give them a fair income, um, but also allow employees, uh, my clients and just, you know, people of Alaska to be able to go to a doctor, not have to pencil it out and figure out if they can afford it and then go to a (unintelligible) and pre- prevent going to a provider, not understanding what out of networking even is, um, getting the lower amount paid back and then being balance billed and run into all kinds of, um, bills that they can't afford to pay. So there's many ways to ensure doctors can get paid fairly while ensuring the Alaskans receive good care at a reasonable cost to themselves and the family members and I think eliminating or modifying the 80th Percentile Rule is the best place to start.

Q: Uh (unintelligible) that wanted to testify, which order is (unintelligible).

Q1: We can try to do one and see if I forget things that obviously...

Q: (Unintelligible).

A17: Good morning, um, and thank you director for the opportunity to participate in, um, the dialogue that you've brought together. Uh, for the record, uh, my name is Beth Johnson and I am the Senior Vice President of Healthcare Services, uh, for, um, Premara Blue Cross Blue Shield of Alaska, uh, a not for profit insurance company, um, that has been in the Alaska market since before statehood, uh, and so we've been here, uh, we want to be here, uh, we want to continue to be here and to continue to work, um, collaboratively with the Division of Insurance, um, with our employers, with our brokers and producers and of course our providers. Um, we have that commitment to the, uh, Alaska market. We are here today though to, um, and we've provided some written commentary, um, to express our serious concerns, um, with the 80th Percentile Rule and comment on our experience, um, as a long time insurer in this market on some of the implications that that has for the overall cost of care, uh, here in Alaska. Um, a couple of things that I wanted to make sure, um, that I called out is, um, being local, um, we do want to, uh, have local care, um, in Alaska. We recognize there is uniqueness in the Alaska market and that, um, the reimbursement in Alaska is not going to equal reimbursement in California, um, or other markets. There is unique geographies, there is unique, um, illness (unintelligible) in the population and we need to make sure we continue to address that. We would suggest though in a more balanced way and we believe, um, the current scenario, um, is, is unbalanced in a way that doesn't, um, help consumers. Um, so the 80th Percentile, under the 80th Percentile Rule and, um, I appreciate, um, and even from the, the comments and, um, some of the, uh, that were provided today as well as in the written comments that were provided, I think, uh, people in this room and people who have provided the commentary don't all understand the 80th Percentile Rule in the same way. So from the fact that, uh, we want to, um, we have a, a drive at Premera, um, to have, um, more, uh, uh, speaking in general terms, uh, what's the word I'm looking for?

Woman: Let's be clear.

Q17: Let's be clear, all right let's be clear (unintelligible), people don't know what formularies are, (unintelligible), you know, people don't know what adjudication means. Well people in Alaska don't know what the 80th Percentile means so at a minimum we all need to get on the same page, um, with, um, with what it means but under the 80th Percentile Rule, um, Premera reimburses providers, um, and it can range, um, in the, uh, from, uh, 400% of

Medicare to over 1000, uh, percent of Medicare and Medicare, um, again it is a government payer and I'm not suggesting, um, that we being paying providers at Medicare levels, um, in Alaska for a commercial, uh, insurance company; however, um, as a national benchmark, the Alaska Medicare reimbursement is 25% higher than the lower 48 so Medicare does try to take into some consideration, uh, the differences in the geography and the illness for, uh, the Alaska marketplace and so when I speak to the percentages of Medicare I'm speaking to the Medicare levels that have already been increased by 25% to, um, now speaking Alaska Medicare not lower 48, um, Medicare. Um, overall we see the professional reimbursement in Alaska is more than double the reimbursement in Washington. Now I'm responsible for our provider relationships here in Alaska, I'm also responsible for our provider relationships in Washington, Oregon and, and in prior lives I've had experience in Idaho, um, and Montana and, uh, the northwest, and the northwest tends to be a little bit more expensive anyway than the rest of the, the, um, the country. Um, but some of the, um, implications of the 80th Percentile Rule and others have talked about it, is it basically sets a floor of reimbursement at the highest level of, um, charges, um, that are in a local geography and, um, it actually then limits our ability to even contract with providers because having this 80th percentile as a non-contracted provider, why would a provider, um, contract with anyone for less than the 80th percentile? They could be non-contracted and be in the 80th percentile so even when we are (unintelligible) in putting contracts into place, they are typically near the 80th percentile in order for a provider to contract with us to have in-network benefits. Now I also want to be clear, there are no villains here, um, the 80th Percentile Rule was put into place at a place and time, uh, that it was needed and part of our premise is it's at a place and time where we need to revisit it, um, the insurance companies are not villains, um, the providers are not villains, um, the, uh, employers are not villains, um, we all are trying to make healthcare work better in Alaska and make it affordable for our consumers and I would just, um, suggest that times have changed, that we need to, um, take, um, uh, a look at that. So the 80th Percentile just being based on billed charges is in itself problematic. We've heard a lot about the fair health (unintelligible) and I'm going to talk a little bit about that but given that, um, charges can be changed at any time, the reimbursement levels go up at any time so there's an unpredictability for both insured groups and self-funded groups about what their claims payments are going to be in any given year. While not at all across the board, we have seen circumstances where some providers have increased their charges 30 to 40% in one fell swoop and that raises their reimbursement level at an unanticipated rate by purchasers 30 to 40%, um, because it's based on, um, billed charges. There were some comments about self-funded groups, um, having been impacted by the 80th Percentile and, and I would like to suggest that, um, that might not be entirely true, um, there are groups, um self-funded groups that have historically paid according to how their um, their carrier, their administrator paid and, um,

more and most of them have been paying according to the 80th Percentile. Um, so historically, um, that reimbursement has, um, been up but we have seen though, uh, self-funded groups are becoming more aware that they are not subject to the 80th Percentile Rule as a way to reduce their costs they are looking for other avenues and some are paying 125% of Medicare because they can, um, 'cause they're not subject to the 80th Percentile Rule or some level of Medicare. We have in this state about half of the employers are self-funded, we don't want to be put in a situation where half of the provider reimbursement all of a sudden drops to 125% of Medicare, that's not, it, it's, it's too much of a shock to the system, we need to figure out how in a very deliberate and meaningful way we can work together to change the cost of, of healthcare. I do want to mention a couple things, um, on fair health, um, fair health is based on charges and the 80th Percentile is based on charges and I am only going to refer to some CPT codes that others have brought up, um, today just to point out some of the differences in (unintelligible). So, um, we, um, heard a little bit about, um, from one of the billing offices and one of the providers about, um, ER, uh, services and code 99885, um, code 99285 is a level 5 emergency room visit and I absolutely concur that fair health at the 80th percentile, uh, for the Anchorage region is $1021, our data would say the same thing and we pay, as the UCR, $1021 for that CPT code. That same CPT code in Washington pays $342; however, I think what we heard the fair health charges for that are higher in Seattle so it, well you can't base, um, a reasonable and customary on charges, it's got to be so I'm not suggesting that we move from $1000 to $300 but a reasonable person and reasonable people working together can figure out what that should be. It shouldn't be $300, it also shouldn't be $1000, um, MRI's, 78184, the, the fair health UCR $2079, that's the 80th percentile in Anchorage for an MRI. In Seattle it's $503. CT scan, CPT code 71270 the UCR in Sea, uh, the UCR in Anchorage is $2039, the average payment level in, uh, Seattle, $424. Cost of living in Seattle is 20% less than in Anchorage, the Medicare pays 25% more. I'm not even suggesting that it has to be 25% different than Seattle, I'm suggesting we need to, um, deliberately take a look at, at what it is that we need to do. Aortic valve replacements, the UCR in Anchorage $34240, that's 1117% of Medicare. In, in Seattle, the average is $4172. We believe the Rule needs to be evaluated and changed, made to made that will provide for a more balanced environment. Just by working for insurance company, I don't want it balanced in my favor, um, I want it balanced. It's not balanced; we need to work to make it balanced. Um, the, the reimbursement methodology it cannot be based on billed charges. Billed charges are arbitrary, um, they can change and by certain, uh, you k now, another providers changing their, um, uh, bill charges it changes the reimbursement level on unpredicted, um, in unpredicted ways. The 80th Percentile had it's place, it was very well intended and it was put in place a long time ago, um, healthcare has changed and we need to figure out, um, how we can work together to figure out how to make healthcare more affordable in Washington. I agree with many of the speakers here today that

the 80th Percentile Rule protects consumers from, um, the balance billing of providers. It though, however, the, the bill is not or the regulation is not, um, balance billed so we do know some providers do balance bill; however, it increases the overall, it's one of those factors that increase the overall cost of healthcare that drives up premiums, that drive down the affordability of people to be able to afford insurance. So, um, it is not something that is in the best interest of the consumers. So thank you for your time, um, and, um, as, um, again, um, Premera Blue Cross Blue Shield of Alaska, a not for profit insurance company, uh, that has been in the Alaska market since before statehood, we welcome the opportunity to be part of working towards the solution. Thank you.

Q: And anyone else from Premera (unintelligible) thanks.

A18: Hi everyone, uh, my name is Joshua Weinstein I'm a insurance, uh, employee benefits consultant with a local Alaska known employee benefits firm called Northrim Benefits Group. It's been a long time we've been sitting here, many of us for almost two hours. I'd like to maybe put out a couple of oranges here to just illustrate if I may, boy they're good, um, maybe the impact of the 80th Percentile, no particular order there.

Woman: (Unintelligible).

A18: Yeah, um, so as far as, uh, maybe a dollar, the cost of bringing this orange to Alaska, to ship it, to grow it, pick it, every stage of delivery a dollar orange and, um, I think it's fair that I say I've got, um, you know, hung, you know I'm hungry and I want to eat and so I've got a, uh, benefit to my work that says I can get an orange. I have a card, a voucher, if I get an orange and, um, what that voucher will cover for my price of my orange is depending on what, in Alaska, when you purchase that orange is the 80th percentile so, uh, Jennifer it cost (unintelligible) dollar, there's only four orange distributors here in the state because quite frankly, setting up an orange shop's pretty expensive. There's a lot of technical, just fixing balls and getting oranges in this state (unintelligible) so Jennifer, how much as an orange distributor owner would you like to charge for your product? Dollars? (Unintelligible).

Woman: (Unintelligible).

A18: Selling oranges. Uh, $2.50 (unintelligible).

Man: Does anybody know where the music's coming from?

A18: Mam, who else, was there another one? I thought I gave out one, okay. That's another, let me grab you one. Five bucks okay? The orange cost a dollar I have a payment card that guarantees me access to the orange, now my plan

(unintelligible) figure out how much to pay. I've given out four oranges to four distributors, the highest that the (unintelligible) now I can't charge $55 for the orange, pay $2, $2.25 and you take whatever (unintelligible), so who's charging $2 for the orange? Jennifer? (Unintelligible) so would you like (unintelligible) these? What would you like to charge for your orange next? Going once, going twice?

Q: We can't, we can't hear there's music being played.

A18: $8, so we are now charging eight times the cost of delivering the orange.

Q: I'm sorry, who's still on the phone? Eric can you...

Man: Music is being played.

Q: ...(unintelligible).

Man: I think somebody has us on hold.

Q: Yeah. I agree, I think somebody's put us on hold and unfortunately it's, someone, uh, put us on hold recently can you, when you're putting us on hold we're getting background music.

Q1: Lori this is Anna, I think what we're going to have to do is cut it, hang up and then re-dial so that the person that's put us on hold, since they can't hear us, will be cut off from the line so unfortunately those on, online will need to dial back in.

Q: Hey I think the music stopped.

Man: No, it just changed tracks. It changed track.

Q: Okay.

Q1: So Juneau is going to go ahead and hang up and then dial back in.

Q: All right, uh, Chip, do we have to re-dial? Yeah. Okay we'll dial back in.

Man: If, if that person (unintelligible)...

Recording: The chairperson has disconnected. The conference will now end. You will now be placed into conference. There are 17 participants in the conference.

A18: (Unintelligible) example that I don't need to (unintelligible) that money that was provided...

((Crosstalk))

A18: ...that (unintelligible), ask (unintelligible) specialty providers they're charging, um, amounts way out of (unintelligible). I'm sorry (unintelligible) purchase for healthcare and (unintelligible) uh, I don't know that reference based pricing Medicare is the actual cost of care but we do know that on one end of a continuum if I were to draw an arrow here, on one end if we tell providers that the going rate is Medicare and you cannot balance bill your patients, isn't that what really what Medicare really sort of is? If a provider takes Medicare? My mom used to see a Rheumatologist at (unintelligible), uh, but for four months she lives in Florida, she's (unintelligible) reimbursement at the rate of Medicare and no balance billing. That will not work but on the other end of the extreme, and I believe finding a charge based model, you can charge for your orange and be reimbursed and I, by design, only gave out four oranges to let the highest one set, clearly in some areas of care we do have a lot more orange (unintelligible) and we don't have (unintelligible)...

((Crosstalk))

A18: ...80th percentile. My comments are focusing on creating and seeking balance between Medicare no balance billing and 80th Percentile with no restrictions on the amount that can be balance billed. I heard a story that someone was provided a $77000 service and Medicare allowed $1000 or would have, well thank goodness for that patient for the 80th Percentile, but how much was that provider paid? Or allowed? $77000 does that should right? I'm paying for that payment card, that insurance so there's gotta be something in-between that'll help or a fair and equitable system. I've also heard that many providers are fair, uh, emergency, some of the emergency medicine providers that are in-network, the radiologists, uh, but we do have problems with providers who do not contract with any insurer and I'm sure there's some (unintelligible) rationale for doing that; however, um, when you don't contract and you have to go out of network, the surprise is the balance for my client, we see that all the time where clients, uh, believe their benefits are (unintelligible) when they go out of network, um, so I would advocate, um, in keeping my testimony shorter than longer or some type of cost based payment voucher that we will allow, now the orange cost a dollar, definitely there needs to be a fair and reasonable margin to sell the orange and I, whatever that multiplier formula is, I'm, I'm, you know, I'm, I'm not the expert in that but if it's $2.50 is fairer for the orange that cost $1 then I think that's a place where we can meet in the middle and not have, have providers come here and be compensated adequately because a charge based model offers the potential for abuse and that's where I see it in primary care, not in family medicine, OBGYN, (unintelligible) it's in some of these sub specialty areas that refuse to contract with any insurer and whose fees are egregious, it's gauging and that is the

problem where they are setting these (unintelligible) therefore they're setting a model, um, but we do have so many fair and wonderful providers up here that are, are within insurer networks who are really are charging a, a, at reasonable amounts. So what do we do? Um, I might propose, uh, you know, if the cost based Med- Medicare's two times Medicare, three times, five times Medicare is not the right formula then maybe looking at a multiplier when you have such, we only have four orange dealers, bring in a larger scope of how do you assess what's a fair rate outside of Alaska and apply some type of function to it, um, I hate, you know, uh, go into the mechanics of it but we can't just buy oranges at, you know, ten bucks a pop when they cost a dollar, that's, that's just, I mean it's not going, it's not sustainable, uh, and it's about the best way I could think to explain to my clients who ask why is my insurance going up, why are these charges so high for healthcare that I can see I can get outside? I'd love for them to stay and say have a reasonable way to purchase it. Thank you.

Q: Dr. (Weinford) didn't go back to his phone, he was on the line with us probably for a little bit and (unintelligible) in Juneau?

A19: Thank you, I will keep this very short. All right, my name is Mike Haugen; I'm the Executive Director of the Alaska State Medical Association here in Anchorage. On behalf of, uh, the 500 physician member I'm here to testify in support of the rule, uh, the Alaska Medical Association represents physicians statewide and is primarily concerned with the health of Alaskans, (unintelligible) which is our acronym recognizes the healthcare costs Alaska along with the rest of the nation have escalated at an alarming rate in recent years and we stand ready to work with the Division on solutions. Repeal of the Rule, in our opinion would not achieve that end, uh, we must remember the Rule was originally put in place as a consumer protection measure to ensure objective transparent methodology was used by all insurance companies for determine reimbursement. The evidence for the original rule was some insurance companies were paying at less the market rates for reimbursement. In transferring those costs through consumer balance billing. The Rule was the result of that, uh, that exercise. The whole (unintelligible) elimination of the Rule would undoubtedly have many unintended consequences such as the diminished ability of physicians statewide to see, uh, military and Tricare and Veterans, as well as Medicare and Medicaid and the uninsured population and just (unintelligible) there was some discussion about Medicare rates, uh, in Seattle versus Alaska. I was intimately involved in the creation of what was known as the Medicare Clinic a few years ago, it was a state sanctioned, state funded, uh program, it was really an experiment to see whether or not Medicare rates in Alaska could actually pay to keep the doors open. We saw nothing but Medicare patients. After three years of experiment and we (unintelligible) we determined that at a, at the (unintelligible) level here in Alaska pays about 50% of what it costs to keep

the door open. Every year the state of Alaska had to come in with supplemental, if not money, to keep the doors open. The clinic was subsequently sold to, uh, Regional Hospital, uh, but as an experiment it proved that every time a physician in this state sees a Medicare patient, even at the higher rates that were allowed in Alaska, uh, physicians lose money, the lose a significant amount of money. That's just the nature of costs and shift in the healthcare; it's the world we live in. In addition if the Rule were, uh, uh, repealed, there would be dramatic increases in out of pocket costs for, uh, consumers, increased difficulty of recruiting or attaining physicians, uh, to the state, which has been touched on before and overall undoubtedly a decrease in the access of care, which is where we were before, uh, the Rule was implemented. Finally it must be noted, uh, that the primary back of the repeal is Premera, who has testified and well it's laudable that Premera claims their effort is solely, uh, (unintelligible) that's not the whole story. Uh, if repealed Premera stands to gain enormous leverage over physicians around the state by forcing them in-network and this is something that Premera has, has tried to do for decades. Uh, it's our association's strong believe that the Rule should be left in place because it's consumer protection affects benefit Alaskans, even today. Uh, these are very uncertain times as we've discussed, uh, previously, previous testimony would be Affordable Care Act is going away, is going to be repealed and replaced by, uh, fiddling with this Rule and eliminating it I think it could add uncertainty in the Alaska market and this is something we simply don't need right now. Thank you.

Q: Okay I'm going to go back to the phones right now, is there anybody online, well let me ask in Juneau, do you have anybody online in Juneau to testify?

Q1: There's not anyone in Juneau to testify.

Q: Okay, I'm going to go back to the phones right now. Is there anybody online that wants to testify? We still have a couple in Anchorage signed up to testify but I'm checking the phones. Is there anybody online that wants to testify? Okay does Mary...

A20: M- Madam Director? Madam Director this is Jim Blakeman, can I make just one observation for the record?

Q: Uh, you can have a couple minutes Jim.

A20: Yeah, yeah, then...

Q: (Unintelligible)...

A20: Simple point is, uh, Premera owns the market, the healthcare market in Alaska, uh, 56% I believe by your own, uh, uh, Department of Insurance

survey last year, 56% of all healthcare beneficiaries covered under, uh, Premera, 8% under Aetna, no other insurer holds more than 3% of the market. It's not possible to gain a, a reasonable contract with someway in this part of the debate, uh, it's tilted in, in favor of providers now, uh, Premera argues and, and our counter is not possible to get, without fair payment regulation, not possible to get a fair contract with someone who virtually owns the entire market, uh, of healthcare reimbursement in Alaska.

Q: Thank you for the comment Jim. Is Mary (unintelligible)?

Woman: I saw her leave.

Q: She left? Okay. Well I think, is there anybody else signed up for testimony? I'm sorry, it is, you have the floor now, I'm...

A21: Thank you very much, uh, my name is Lisa Sauder and I'm here today both as an employer, I'm the Executive Director for the Café and the Children's Lunchbox and also as a consumer, um, at Bean's Café right now we are looking at a $96,000 per year increase in our healthcare policy, um, for a non-profit who is also facing, um, lower than previous years donation, both from individuals, corporations, uh, (unintelligible) uh, we're feeling the squeeze, um, we're looking at how can we continue to downsize, we already have eliminated positions, we've eliminated full-time positions to part-time positions, um, we are an employer at the Café that gives people that sometimes third, fourth, and fifth chance. They're coming out of corrections, they're coming out of homelessness, we are there to help them get back on their feet but if I can only employ somebody part-time it's going to take them twice as long potentially, if at all, to be successful again and to get benefits and to truly, um, become part of contributing to society again. It also has a significant impact on the services we can deliver to our community. We have a weekend food program that was developed directly, um, by the request of schools, that they were finding that children were coming to school on Monday having had literally nothing to eat over the weekend because there are few, if any programs where children can receive, uh, meals. We know the schools are closed, um, there's very few options for families and children on weekends. We currently serve 3000 students every Friday here in Anchorage; we give them a bag of food to help tide them over for the weekend. Our $96000 healthcare cost increase could potentially mean that we cannot serve 835 kids weekend food for an entire year. That has a huge impact on 835 children, their families, their teachers, their classmates, their behavior in class, their future, their academic success down the road. Um, it's one thing on top of another. Also because we are a locally based Alaska non-profit, um, we're competing for grant funding from funders, uh, who are looking at cost of administrative expenses for non-profit. Smart funders do this; I completely understand it but if I'm going to be stacked up against an organization that's

based outside, and provides insurance for their employees, from say Texas? My administrative overhead expenses are going to be exponentially larger than theirs. Period. It puts me in a position where we're not as competitive to receive grants from large funders outside the state or inside the state, but particularly outside state funders who really don't understand the intricacies of the healthcare system and what's been happening in Alaska. Um, the other thing as a consumer, um, my husband has had multiple, uh, issues over the last couple of years, he's had several emergency surgeries, um, and in spite of meeting our max out of pocket deductible in both 2015 and 2016, we have been continually balance billed by multiple providers that we have tried negotiating with to no avail, but now have been sent to collections. So balance billing is happening, um, we are living examples of it, it was emergency surgery, you don't get to pick you don't get to price shop, um, but something has to change and, uh, from what I've learned I don't think that the 80 Percent Rule is in the best interest of Alaska, it creates an unfair advantage for businesses and non-profits based outside of Alaska and then some, somewhat who are self-insured, um, and it also doesn't protect the consumer from (unintelligible), living example of that.

Q: Thank you. All right, is there anyone else online, uh, do you want to (unintelligible), okay, one more in Anchorage to testify.

A22: Hi, I'm Melinda Rathkopf, I'm a physician at the Allergy, Asthma and Immunology Center of Alaska and wasn't planning on speaking initially but just wanted to make a few points, I mean first, uh, as a person you know this affects all of us in this room, all of us have, or most of us have health insurance or want to have health insurance if we don't, uh, this weekend my husband skiing in Alyeska tweaked his knee and had to go the first aid station and my first thought was oh we're not, are you okay? Mine was, now we're going to have to meet our deductible in the first week of the month, now we've got to go see an orthopedic surgeon. So it is a real issue to all of us, we're all consumers, but I'm also an employer. We still live in a state and I think it's a good thing where the vast majority of physicians are in private practice, it gives the ability to take the best care of our patients but that also makes us small business owners, um, I'm a, one of the partners in our practice and therefore I employ about 30, um, 30 employees so it's a big deal for us too on how much we have to pay for healthcare. We want to offer the best healthcare available to our employees and their families also but I'm also a provider and I think what I want to emphasize is that we do, as providers in the state, recognize the problem, we recognize the escalation in healthcare costs, uh, but I think some of the numbers that have been given are skewed, I think they're cherry picked, um, to give you an extreme example. While I agree that there may be certain areas that are unsustainable and I, (unintelligible) reason why charged or what they are, I think the consumer and the general public think that's how everything is across the board and that's

just not true. The vast majority of physicians, we go into this field because we have a passion for what we do, we enjoy what we do and we want to be able to keep doing it but I have to be able to keep the lights on, I have to be able to provide healthcare to my employees, I have to be able to sustain that. Just sitting here I looked up some of these numbers, when I'm hearing the cost of some of these procedures, but take something that I charge about 15 times a day, which is a basic follow-up visit, medium complex visit so an Asthma follow-up, I'm an Asthma and allergy specialist, I looked at the charges here in my office we charge for that visit versus what they would charge in Seattle. $292 for a medium, moderate level follow-up visit here, $280 in Seattle, we're not talking about these huge, huge rates for the vast majority of it and you heard that from the radiology group, from the emergency medicine group that we haven't seen evidence of the abuse of that for the vast majority and so while we agree there may be some areas of, that definitely need (unintelligible) in the medical community want to work with the, with the system, we want to correct some of the discrepancies, we don't think repealing of this is the case.

Q: Anyone else in the room?

Man: (Unintelligible) last one.

Q: Is there anyone on the phone that wishes to testify? It's approximately 12:30 on the 6th, is there anyone online that wants to testify for the Public Scoping Hearing? Okay at this time I'm going to end the hearing; we're going to reconvene at 5:30 tonight at this very room and in Juneau with the same room. The lines will be open for public testimony at that time. We will begin at 5:30, we plan to end at 7:30 but if people are online or in person to testify we will continue until all testimony has been taken. So we are suspending the hearing until 5:30 this evening. Thank you all for participating.

Recording: The chairperson has disconnected. The conference will now end.

The transcript has been reviewed with the audio recording submitted and it is an accurate transcription. However, there may be minor differences in wording and grammatic flow as a result of the transcription program. Efforts were made to correct the spelling of names. In addition, comments made by division staff have been slightly edited in to improve clarity. Readers are encouraged to review the electronic audio tapes on the division's website.

Signed_____