



THE STATE
of **ALASKA**
MICHAEL J. DUNLEAVY
GOVERNOR

Department of Commerce, Community,
and Economic Development

DIVISION OF INSURANCE

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Summary of Comments Provided at the Public Scoping Hearing

On November 6, 2019, the Division of Insurance held a public scoping hearing in order to hear from individuals and insurers regarding any issues related to the division's regulations and to hear proposals regarding possible changes to those regulations.

The division received comments and proposals concerning the difficulty in making total loss valuations under 3 AAC 26.080. They requested changes to 3 AAC 26.080 and 3 AAC 26.300 in order to make it easier for insurers to expand the search when attempting to provide a total loss valuation.

The division received comments relating to out-of-network benefit level under 3 AAC 26.110(f), requesting clarification in the regulations to demonstrate that the policy can provide benefits at differing levels.

The division received comments related to continuing education for Long Term Care insurers, stating that the 4-hour biennial requirement is overly burdensome for insurers and is not very beneficial to the public.

The division received comments relating to the annual notice to consumers under 3 AAC 26.615, requesting clarification if the notice requirement was still in effect given the amendments to the Gramm-Leach-Bliley Act in 2015.

The division will review the comments received and will consider them when making future regulatory changes. The division thanks everyone for their input.

Dated November 20, 2019.

A handwritten signature in blue ink that reads "Lori Wing-Heier".

Lori Wing-Heier
Director



Lyn D. Elliott
Assistant Vice President,
State Government Relations

November 5, 2019

Alaska Division of Insurance
Attention: Jackson Willard
P.O. Box 110805
Juneau, AK 99811-0805

Sent via e-mail

RE: Notice of Public Scoping Seeking Input on 3 AAC. Regulations in 3AAC 26 – Total Loss Claims Procedures; Bulletin 98-10 – Named Driver Exclusion Forms; Electronic ID Insurance Cards

Dear Mr. Willard:

On behalf of American Property Casualty Insurance Association (APCIA) and our members, thank you for the opportunity to propose changes to regulations in 3 AAC, the regulations of the Division of Insurance. We submit the following comments in three areas: Total Loss Claims Procedures; Named Driver Exclusion Forms; and Electronic ID Insurance Cards.

Total Loss Claims Procedures

APCIA believes that regulations governing **total loss** claims handling procedures should recognize that consumer purchasing options and behavior that have evolved in recent years. Today a consumer may select vehicles from any location across the globe in myriad vintages, makes, models and styles, and we believe Alaska should consider what insurers and others believe is the most accurate method for determining Actual Cash Value (ACV) for the loss vehicle, instead of specifying that an insurer determine ACV based on finding a replica of the loss vehicle, available for sale in the local marketplace, which may simply not exist.

The regulations related to total loss handling in Alaska have been the subject of considerable discussion between the department and the industry over the years. There were some significant changes made to the regulations back in 2015, however APCIA believes that additional changes should be considered to, speed the claims settlement process and provide to additional choices for consumers.

Thus, APCIA recommends the following changes to 3AAC 26, Total Loss Claims Procedures:

3AAC 26.080(h)

Existing Regulatory Language:

(h) An insurer may reduce the value of the motor vehicle on the basis of betterment. Any deductions must be measurable, be itemized, have specific dollar amounts, and be documented in the claim file. Betterment deductions may be made only if the deductions

- (1) reflect a measurable decrease in market value attributable to the poorer condition of the vehicle or damage to the vehicle that existed before the current claim;
- (2) apply to parts normally subject to repair and replacement during the useful life of the vehicle;
- (3) reflect missing parts and the deductions are not more than the replacement cost of the parts.

Recommendation: We ask the division to remove this section or clarify its application to repairable vehicles.

Rationale: This section confuses the concepts of betterment (applied on repairable vehicles where accident damage can't be repaired without repairing old damage) and reducing the value of a total loss for unrepaired prior damage not related to the accident.

3AAC 26.080(i)

Recommendation: Revise regulation as follows:

- (i) A source for determining fair market values under (a)(1)(B)(iii) of this section must meet the following criteria:
- (1) the source must give primary consideration to the values of comparable vehicles in the local market area that are currently available or were available within the last 90 days;
 - (2) the source must produce ~~local market areas~~ values for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for these vehicles;
 - (3) if ~~no a statistically valid number of~~ comparable vehicles ~~is not~~ found in the local market area within the last 90 days, the search may be expanded ~~in time and distance~~, up to the last 180 days in 30 day ~~and/or 25 mile~~ increments until ~~two or more a statistically valid number of~~ comparable vehicles ~~is are~~ located. The search may only be expanded outside the state with the consent of the claimant.
 - (4) ~~if no comparable vehicles are found in the local market area after expanding the search period as provided for in (3) of this subsection, the search area may be expanded to areas surrounding the local market area that include two additional licensed dealers for vehicles that are currently available or were available within the last 90 days; if no comparable vehicles are found in the expanded search area, the search area or time period in 30 day increments may be expanded further with the agreement of the claimant.~~

Rationale: These amendments reflect APCIA's interest in maintaining reasonable consistency with the NAIC model regulation.

3 AAC 26.300(13)

Recommendation: Revise regulation as follows.

- (13) "comparable motor vehicle" means a motor vehicle by the same manufacturer, same or newer model year, similar body style, similar options and similar mileage as the loss vehicle and in as good or better condition. Under Section 3 AAC 26.080(a)(1)(b), adjustments may be made for differences between the claimant's vehicle and the comparable vehicle for differences in model year, body style, options and mileage to establish a cash settlement amount.

Rationale: Insurers commonly make adjustments for differences between the loss vehicle and the comparable vehicle. By requiring only comparable vehicles that are in better condition or have less mileage, the proposed regulations suggest the insurer settle a total loss claim by providing a value that is higher than the fair market value of the loss vehicle. This is inconsistent with insurance policy language and would trigger higher claims settlement costs.

Named Driver Exclusion Forms

Bulletin 98-10

Recommendation: Revise Bulletin 98-10 for clarity as to who is required to sign Named Driver Exclusion (NDE) forms, provide the option for insurers to offer the NDE without the insured having to initiate the request, and provide for the ability of the insured to sign NDE forms electronically through a secure e-signature method.

The language in AK 28.20.440(l) reads "a person who resides in the same household as the person named as insured or a person who is a relative of the person named as insured shall be excluded from coverage under a motor vehicle liability policy if the person named as insured requests that that person be excluded from coverage." Given the clarity intent in AK 28.20.440, we recommend the corresponding Bulletin 98-10 be amended to provide specific requirements to ensure that the insurer and the insured have clarity regarding the NDE.

Rationale: Given the repeal of AK Bulletin 97-07 and enforcement of AK Bulletin 98-10, there is ambiguity regarding the Named Driver Exclusion disclosure duties. Without Bulletin 97-07, there is no definite requirement for who needs to sign Named Driver Exclusion forms. Allowing the insurer to offer the NDE without the insured having to initiate the request provides flexibility and reduces the burden on the insured to

seek the NDE. In addition, providing for an electronic signature ability for the insured to sign NDE forms through a secure e-signature method would benefit the insured with a shortened delivery time and increased accessibility.

Electronic ID Insurance Cards

Recommendation: Give insurers the ability to offer electronic insurance ID cards. It would benefit the consumer, industry, and environment.

Rationale: The number of consumers who use and/or prefer digital transactions is increasing. Currently there is no bulletin or code that permits the use of electronic insurance ID cards.

Thank you for the opportunity to provide comments and recommendations on these important regulations. Please contact me if we can provide additional input or other information to assist you in your efforts.

Sincerely,



Lyn D. Elliott

LDE

November 6, 2019

Mr. Jackson Willard
Regulations Specialist
P.O. Box 110805
Juneau, AK 99811-0805

Re: Audatex Comments in Response to the Notice of Public Scoping for Changes to Title 3 of the Alaska Administrative Code (3 AAC 26.080 and 3 AAC 26.300)

Dear Mr. Willard,

Audatex appreciates the opportunity to provide comments and recommendations in response to the Division's Notice of Public Scoping concerning 3 AAC.

Solera Holdings, Inc. (Solera) is a global leader in risk and asset management data and software as a service (SaaS) solutions for the automotive and insurance industries. Solera is active in over 90 countries across six continents. Solera has over 235,000 customers and partners, including many of the largest U.S. and European P&C insurance companies and most of the world's largest vehicle OEMs, as well as national governments, financial institutions, vehicle dealership, vehicle repair shops, salvage yards and vehicle buyers and sellers.

Solera, along with its wholly owned subsidiary, Audatex North America, Inc. (Audatex), is the leading global provider of independent estimating and software services to both the collision repair and automobile insurance claims processing industries. Market specific vehicle valuations provided by Audatex through its Autosource valuation services are used by insurers to value and settle automobile vehicle total loss claims in every state. Autosource processes several thousand total loss valuations in Alaska, and over one million total loss valuations in North America.

Several states, including New York, New Jersey, Connecticut, Pennsylvania, New Hampshire, West Virginia, and Indiana require certification of total loss valuation providers. Insurance regulators in these have extensively reviewed and certified Autosource as a provider of fair and accurate total loss vehicle valuations.

Audatex's comments and recommendations are hereby proposed to simplify 3 AAC 26.080 and 3 AAC 26.300 in order to make it possible for insurers and total loss valuation providers to deliver fair, accurate, market specific actual cash value settlements in a timely manner to get Alaskan insurance consumers back on the road as quickly as possible.

Summary of Audatex's Concerns with the Current Regulation

Due to restrictive and overly complex geographic and temporal regulatory requirements for locating comparable automobiles, reliance on dealer quotations to value total loss vehicles is significantly higher in Alaska than in other states. This over-reliance on calls to dealers has resulted in an increasing number of dealers that refuse to provide quotes. Dealers will often respond with "call back later" when contacted for a quote, preventing completion of a total loss valuation within a reasonable timeframe. In 2019 YTD, over 1,000 calls have been made to dealers to obtain 178 dealer opinions on a loss vehicle. Since two quotes are required when using quotes, this means that on average, over ten phone calls to dealers are necessary to obtain the required dealer quotes for one claim. 44% of dealers responded with "call back later" on the initial call, further delaying the valuation process.

Example: Audatex received a request to value a 2006 Nissan Titan 4WD pickup in Kenai. With only one 2006 Nissan Titan 4WD listed for sale in the state, Audatex began calling dealers in Kenai, Soldotna, Anchorage and Fairbanks. It took 21 calls to obtain three dealer quotes of \$9,925, \$5,995, and \$9,925. (Since one quote was well below market, additional calls were required to obtain a reasonable value.) 18 of these calls received a response of "call back later."

Excluding Alaska, 95% of all automobile total loss valuations in the US are completed the same day that Audatex receives the request. As a result of a higher level of manual intervention made necessary by the current regulations, the same day valuation completion rate in Alaska is only 83%. The average processing time for a valuation in Alaska is more than three times the national average. This is due in part to the higher proportion of valuations that rely on dealer quotes and the time it takes to obtain the quotes. These delays slow the process for consumers to receive their settlements and get back to their lives.

Following are Audatex's recommendations to simplify 3 AAC 26.080 and 3 AAC 26.300, allowing for more accurate and timely cash settlements on total loss claims for Alaskans.

3 AAC 26.080(a)(1)(B)

Recommendation:

"Make a cash settlement based upon the actual cost to purchase a comparable motor vehicle, including all applicable taxes, license fees, destination or delivery charges that are incurred or will be incurred, and other fees incident to transfer of ownership, less the deductible amount, if any, as stated in the coverage"

Reason: Audatex acknowledges the unique challenges Alaskans face when replacing a totaled vehicle, which may include higher than normal destination charges from dealers. At the time the vehicle valuation is completed

however, it is often unknown what if any destination charges will be incurred, making definitive determination of any destination charges impossible to establish at the time of valuation. With the average total loss in Alaska being twelve (12) model years old, it is likely that the vehicle owner will replace their totaled vehicle with a different vehicle from an area dealer thereby not incurring any destination charges, or decide it is time to upgrade, rather than shop for their exact 2007 Toyota Rav4 that is 500 miles away, or in Seattle. If the vehicle owner wants the same vehicle and makes or plans such a purchase, for example through a car buying service, then the destination charges will be clear. This recommendation is also consistent with Bulletin B 11-04. Although repealed, the Bulletin is informative as to the Division's opinion on this topic:

“These charges are to be included in a settlement offer if the claimant has incurred or will incur destination or delivery charges in addition to the purchase price of the vehicle. A receipt from the claimant or a quote from a shipping firm may be used to determine the amount that must be included in the settlement offer.”

3 AAC 26.080(a)(1)(B)(v)

Recommendation:

(v) the cost of a comparable motor vehicle using a basis which deviates from the methods described in subparagraphs (i)-(iv) of this section. ~~that is allowable under the coverage, if~~ The deviation must be supported by documentation in the claim file and fully explained to the claimant; ~~cost may be determined under this subparagraph only if (i) – (iv) of this subparagraph do not identify any comparable motor vehicles;~~

Reason: The recommendation is more closely aligned with the NAIC Unfair Property/Casualty Settlement Practices Model Regulation (“NAIC Model”) (see attached). In addition, only allowing a deviation from the methods in (i)-(iv) in the event a comparable vehicle is not identified, undermines any statistical validity of the valuation process by requiring the use of a single comparable vehicle which may or may not represent a fair market value.

The methodologies listed under 3 AAC 26.080 (i)-(iv) do not provide enough flexibility to establish values for every vehicle, nor account for the many ways consumers now shop for vehicles, including car buying services which open up a national market and the many online sources available today.

With the typical total loss vehicle in Alaska now twelve (12) years old with 113,000 miles on the odometer, comparable vehicles on older or unique vehicles vary widely in geographic location, condition and mileage. More than one or two vehicles are needed to establish a fair market value. As discussed above, dealers are less often willing to provide quotes, making the reliance on dealer quotes impractical, and the opinions of used car sales managers can result in widely varying and inconsistent values.

As well, published industry sources do not cover all makes and models of vehicles on the road. For example, current model year vehicles, customized vehicles, and even some common models with less frequently produced trim levels cannot be valued using books.

The requirement that using a basis “allowable under the coverage” is ambiguous at best and impractical if the insurer is required to detail a total loss methodology in the policy. Changing policy language is impractical when an insurer occasionally changes valuation providers or methodologies.

3 AAC 26.080(i)

Recommendation:

(i) A source for determining fair market values under (a)(1)(B)(iii) of this section must meet the following criteria:

(1) the source must give primary consideration to the values of comparable vehicles in the local market area that are currently available or were available within the last 90 days;

(2) the source must produce values applicable in this state for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for these vehicles;

(3) if ~~at least two~~ a statistically valid number of comparable motor vehicles are not found in the local market area during the last 90 days, the search may be expanded up to the last 180 days from the date of loss in 30-day and 25 mile increments until a statistically valid number of two or more comparable motor vehicles are located. The search may only be expanded outside the state with the permission of the claimant.

~~(4) if at least two comparable motor vehicles are not found in the local market area after expanding the search period as provided under (3) of this subsection, the search area may be expanded to areas surrounding the local market area in 25-mile increments for comparable motor vehicles that are currently available or were available during the last 90 days; if at least two comparable motor vehicles are not found in the expanded search area, the search area or time period in 30-day increments may be expanded further with the agreement of the claimant.~~

Reason: To maintain consistency with the NAIC Model regulation, while providing for a controlled expansion of time and distance to locate a statistically valid number of comparable vehicles.

Contrary to the stated purpose of establishing criteria for statistical validity, the criteria limits insurers to the one or two closest vehicles regardless of the fairness or accuracy of the price. Determining a statistically valid value requires more than one or two data points for statistical validity.

Paragraphs (3) and (4) require numerous distinct searches to be conducted, alternating between time and distance, making compliance complicated and cumbersome. The recommended change simplifies the search criteria while allowing for controlled and limited expansion of time and distance.

3 AAC 26.300(7)

Recommendation:

(7) "local market area" means the geographical area, in the closest proximity to the claimant's residence, or a necessary expansion in 25-mile increments to locate a statistically valid number of comparable vehicles in which two or more licensed dealers are located;

Reason: Measuring geography by the existence of dealerships is a variable metric and is difficult to measure. This requirement does not guarantee a quality dealer opinion of the value of the loss vehicle, nor does this measurement necessarily provide a comparable vehicle.

3 AAC 26.300(13)

Recommendation:

(13) "comparable motor vehicle" means a motor vehicle by the same manufacturer, same or newer model year, similar body style, similar options and similar mileage as the loss vehicle and in as good or better condition. Under Section 3 AAC 26.080(a)(1)(B), adjustments may be made for differences between the claimant's vehicle and the comparable vehicle for differences in model year, body style, options, condition, and mileage to determine the cost of a comparable motor vehicle.

Reason: A comparable replacement vehicle under 3 AAC 26.080(a)(1)(A) would necessarily need to be very similar in mileage, options and condition. The recommended change clarifies that adjustments are allowed for differences between the loss vehicle and comparable vehicles for purposes of establishing a cash settlement.

Summary

The recommended changes remove unnecessary barriers to providing fair, accurate, and expeditious valuations using current technology and resources, and reflect the buying options available to Alaskans when purchasing a vehicle.

Allowing insurers to expand the search to locate actual comparable vehicles and adjust for differences rather than relying on often unwilling car sales managers will provide more timely and accurate valuations. If a consumer does not believe the settlement offer provides adequate compensation for their totaled vehicle, they are protected by the right of recourse provision contained in 3 AAC 26.080(j). This option offers protection for consumers through a straightforward process to dispute the value of their settlement.

Audatex respectfully submits these comments for the Division's consideration. As always, we would be happy to discuss our comments at your convenience.

Sincerely,

Diane Klund

Director of Regulatory Affairs
Audatex North America, Inc.

- F. The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within thirty (30) days of affirmation of liability, if the amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments which are not in dispute and where the payee is known should be tendered within thirty (30) days if such payment would terminate the insurer's known liability under that individual coverage.
- G. No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.
- H. If, after an insurer rejects a claim, the claimant objects to such rejection, the insurer shall notify the claimant in writing that he or she may have the matter reviewed by the [insert state] Department of Insurance, [insert department address and telephone number].

Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance

- A. When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods shall apply:
 - (1) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. The insurer shall pay all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.
 - (2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:
 - (a) The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last ninety (90) days to consumers in the local market area; or
 - (b) The cost of two (2) or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last ninety (90) days to consumers when comparable automobiles are not available in the local market area pursuant to Subparagraph (a); or

Unfair P/C Claims Settlement Practices Regulation

- (c) One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area when the cost of comparable automobiles are not available pursuant to (a) and (b) above; or
- (d) Any source for determining statistically valid fair market values that meet all of the following criteria:
 - (i) The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area;
 - (ii) The source's database shall produce values for at least eighty-five percent (85%) of all makes and models for the last fifteen (15) model years taking into account the values of all major options for such vehicles; and
 - (iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.
- (e) Right of Recourse—If the insurer is notified within thirty-five (35) days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle for the market value, the company shall reopen its claim file and the following procedures shall apply:
 - (i) The company may locate a comparable vehicle by the same manufacturer, same year, similar body style and similar options and price range for the insured for the market value determined by the company at the time of settlement. Any such vehicle must be available through licensed dealers;
 - (ii) The company shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured;
 - (iii) The company may elect to offer a replacement in accordance with the provisions set forth in Section 8A(1); or
 - (iv) The company may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or a common law.

The company is not required to take action under this subsection if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style and similar options in as good or better condition as the total loss vehicle which could have been purchased for the market value determined by the company before applicable deductions. The documentation shall include the vehicle identification number.

- (3) When a first party automobile total loss is settled on a basis which deviates from the methods described in Subsection A(1) and A(2) of this section, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from the cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for the settlement shall be fully explained to the first party claimant.
- B. Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's policy.
- C. Insurers shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.
- D. Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.
- E. Vehicle Repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which he obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall (1) pay the difference between the written estimate and a higher estimate obtained by the insured, or (2) promptly provide the insured with the name of at least one repair shop that will make the repairs for the amount of the written estimate. If the insurer designates only one or two such repairers, the insurer shall assure that the repairs are performed in a workmanlike manner. The insurer shall maintain documentation of all such communications.
- F. When the amount claimed is reduced because of betterment or depreciation all information for such reduction shall be contained in the claim file. The deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

Wing-Heier, Lori K (CED)

From: Willard, Jackson L (CED)
Sent: Tuesday, November 5, 2019 10:54 AM
To: Wing-Heier, Lori K (CED); Latham, Anna M (CED)
Subject: FW: Recommended revision to 3 AAC 26.110(f): written comments

Below is another comment received for the public scoping hearing.

Thanks,

Jackson Willard
Regulations Specialist
333 Willoughby Ave, 9th Floor
Juneau, AK, 99811-0805
P: (907) 465-8486 FAX: (907) 465-3422
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From: Rose, David <david.a.rose@metlife.com>
Sent: Monday, November 4, 2019 10:03 AM
To: Willard, Jackson L (CED) <jackson.willard@alaska.gov>
Subject: Re: Recommended revision to 3 AAC 26.110(f): written comments

November 4, 2019

Alaska Division of Insurance
Attention: **Jackson Willard**
P.O. Box 1 10805
Juneau, AK 99811-0805

Re: Revision to 3 AAC 26.110(f)

Dear Mr. Willard:

Pursuant to the Alaska Division of Insurance's (Division) September 10, 2019 Notice of Public Scoping, this email is intended to offer comments on 3 AAC 26.110(f). MetLife respectfully requests the Division consider revising this regulation to indicate that outside of certain exceptions, out-of-network benefits can be provided at a different benefit level than in-network benefits.

As you know, 3 AAC 26.110(f) includes requirements for health insurance policies that provide in and out-of-network benefits and states that "If a health insurance policy provides in-network and out-of-network benefits, the policy must provide at a minimum the in-network benefit level for the following: (1) emergency services; (2) services or supplies

provided by an out-of-network health care provider or health care facility, if an in-network health care provider or health care facility is not reasonably accessible as defined in the policy; (3) services provided by an out-of-network health care provider as part of a covered stay at an in-network health care facility when a covered individual does not have or is not given a choice of health care provider.”

However, we have found that during the review of our certificate forms, the requirements listed in this provision have been interpreted to mean that in all instances the out-of-network benefit level must match the in-network benefit level. While we understand the need to have matching benefit levels for emergency services, or when an in-network provider/facility is not reasonably accessible, or when services are provided by an out-of-network provider as part of a covered stay at an in-network facility – we ask that you consider adding clarification to 3 AAC 26.110(f) to demonstrate that except for these three listed exceptions, the out-of-network benefit level does not need to match the benefit level set for in-network providers. A suggested revision that would clarify this point would be insertion of the underscored language as follows:

“(f) If a health insurance policy provides in-network and out-of-network benefits at differing benefit levels, the policy must provide at a minimum the in-network benefit level for the following: (1) emergency services; (2) services or supplies provided by an out-of-network health care provider or health care facility, if an in-network health care provider or health care facility is not reasonably accessible as defined in the policy; (3) services provided by an out-of-network health care provider as part of a covered stay at an in-network health care facility when a covered individual does not have or is not given a choice of health care provider.”

Please do not hesitate to contact me should you have any questions or require additional information. Thank you for your consideration of this request.

Best,

David

David A. Rose | Assistant Vice President | State Government Relations | MetLife
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November 06, 2019
Alaska Division of Insurance
Continuing Education Requirements for Specific Product

I have been an advocate for professional continuing education licensure requirements since the original hearings on the bill and its eventual adoption by the legislature. Even though I am exempt from the license renewal requirement I still accumulate an average of twenty hours of professional CE a year. I have been licensed since 1974 and I have spent many hours obtaining professional designations as well as specific product training.

I am concerned that the requirements to enable a producer to sell LTC coverage are a barrier to entry rather than a catalyst to being better trained. Spending eight hours in an initial class or on line to be able to sell the LTC products is not beneficial to the public or to the producer. There is just not enough material available in the market place to spend eight hours on these products. Unfortunately a lot of filler must be added in order to get the requirement that the law demands. This is time that could be better spent by the producer working with clients and prospects.

In reality there is not enough new material to fill a session of four hours which is required every two years. Basic coverages have not changed and the tax law is pretty much the same also. The new hybrid policies available today constitute most of the new material and it can be taught in a much shorter time frame than four hours. All of this is being supplemented by the carriers and their product managers doing a lot of training on these products.

We live in a very expensive state when it comes to LTC. I am concerned that we don't have enough producers in this market today and it will be difficult to bring more in when the licensing requirements are seen. I believe we have a well educated field force in Alaska and I would like to see it grow.

Thank You for the opportunity to express my concerns with this regulation.

David L Stratton, ChFC, CRPC, CLU, CASL
Financial Planner

David L. Stratton, CLU®, ChFC®, CASL®, CRPC®
Financial Planner



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Wing-Heier, Lori K (CED)

From: Robert Ralph Nash <robert.r.nash.gted@statefarm.com>
Sent: Wednesday, October 16, 2019 4:13 PM
To: Wing-Heier, Lori K (CED)
Cc: Sheldon E. Winters (swinters@lessmeier-winters.com)
Subject: GLBA Annual Privacy Notices - FAST Act Amendment

Director Lori Wing-Heier
Alaska Insurance Division

Director Wing-Heier:

State Farm seeks clarification from the Alaska Insurance Division (AID) concerning the provision of the *annual* privacy policy notices in Alaska based on NAIC Model Act 670 and Model Regulation 672, modeled after the Gramm-Leach-Bliley Act (GLBA). In Alaska, AK St [§ 21.36.510](#) (Nondisclosure of Personal Financial and Personal Health Information) requires the director to “adopt regulations regarding the release of financial and health information” “at least as restrictive as the model regulations adopted under the National Conference of Insurance Legislators Financial Information Privacy Protection Model Act” (which are based on the GLBA).

Recognizing that annual notices are redundant and do little to educate consumers, Congress passed, and President Obama signed, the 2015 Federal Fixing America’s Surface Transportation Act (FAST Act), amending the Gramm-Leach-Bliley Act’s (GLBA) annual privacy notice requirement. Financial institutions no longer need to send annual privacy notices if: (1) the financial institution only discloses nonpublic personal information to nonaffiliated third parties in accordance with the exceptions set forth in the GLBA; and (2) the financial institution has not changed its policies and practices regarding disclosing nonpublic personal information from those that were disclosed in its most recent privacy notice. In other words, if the company has not changed the way it handles privacy information, it need not give the same notice, year after year. This promotes administrative efficiency and eliminates the unnecessary, ineffectual annual notices that were formerly required by the GLBA.

State Farm wants to confirm with you that the annual notice in [3 AAC 26.615](#) (Annual Privacy Notice to Customers) is no longer required, as long as the conditions outlined above exist. We are hopeful that the Division can acknowledge this via a bulletin or an advisory letter. In that regard, the NAIC has approved a Model Bulletin entitled [Gramm Leach Bliley Act Annual Privacy Notices](#), which addresses the FAST Act Amendment.

Thank you for considering this request. Please let me know if you have any questions.

Bob

Robert R. Nash, Counsel

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