

80<sup>th</sup> Percentile Hearing  
3/1/2023 1:00 pm – 5:00 pm  
State Office Building, Juneau, Alaska  
Computer generated transcript - lightly edited

29:36

Good afternoon. This is Lori Wing-Heier. We are in the State office building in Juneau, AK, the 9th floor, the Department of Commerce, Community and Economic Development.

It is approximately 1:00 PM on March 1st and we are here to talk about the 80th percentile and if the regulation should be repealed or not. A few housekeeping items if you're coming in in person to testify, although with the storm, I understand if you don't and elect to attend virtually, but if you are coming in, please sign in and indicate you wish to testify. For those that are attending virtually on teams, please raise your hand if you wish to testify. We will then unmute you on this end. You will unmute yourself and call and and testify when I call upon you.

For those on the phone, you will need to press star 5 to indicate that you wish to speak. That will let Sarah and I see that you wish to speak. We will call upon you, you will press star 6 and the floor will be yours. This meeting is being recorded and will be available on the division's website later this week for anyone to see.

So why are we here? The 80th percentile? In essence, what the 80th percentile does. This is the regulation that you see up on the screen in front of you. It provides.

A basement, a floor, a beginning of where the charges need to be paid. It is not the 80th percent, but the 80th percentile based on a statistically credible profile for each geographic region for healthcare or service supplies.

Again, this is not paying claims at 80%, but think of it as different healthcare providers charge different amounts for the same healthcare service. We know that, you know that from when you've been a healthcare consumer.

What happens is the 80th percentile. If you were to put ten data points of different fees in a row and line them up as from the the most expensive to the least expensive, the top two somewhere in there would be determined statistically to be your 80th percentile. Sarah and I ran a couple of computations of this this week to see how it works, and it's generally about the top two is where the the floor begins of what the charges have to be paid at. But again, it's not the 80th percent.

With the percent percentile. The rule applies to insured plans. Those that the division regulates, which is about 15 to 20% of Alaskans are in insured plans, individual markets, small group and large group. Those that are self funded have a large deductible, deductible or a union trust.

Those are not within are not subject to this rule. However, we know that in past that many of these plans have adopted the 80th percentile so that their plans were paying equivalent to what the insured market is.

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Why was it adopted? Because back in the early 2000s, there was a concern that insurance companies were not reimbursing providers at a very high rate. And this was set so that consumers in Alaska did not have large balance billings. And at the time, it did what it was supposed to. It was adopted to protect consumers from excessive bills. And it did, and it still does. But things have changed.

In 2020, Congress passed NSA, what is called the No Surprise Act. And what this did was put in no surprise billing for all consumers in the US, consumers of healthcare. So it took the consumers out of the middle and now, under federal law, surprise billings are adjudicated between the between the provider and and the payer.

Our feeling at the division is as that perhaps with the No Surprise Act now being a federal law, the 80th percentile as respects consumer protection for large surprise bills is no longer necessary. The NSA or the no surprise act is important when you are out of network during an emergency visit you're in an in network hospital with an out of network provider. Let's say you go into Providence as an example and Providence is your network hospital but your anesthesiologist all of a sudden you find out that is a non network provider. If you were not given advance notice the non the No Surprise act would apply to you. It also applies to out of network air ambulance services which is important in Alaska.

The NSA does have some enhanced consumer disclosures, and these are that the provider or the facility, meaning a hospital or clinic, needs to provide you or must provide you a good faith estimate of the expected charges. So that you can make an informed decision of what you're willing to pay if it ends up being an out of network provider as opposed to an in network provider when generally your costs are much lower.

The division has already held two hearings on this in Anchorage. We held one last one last a week ago today and on the 24th and Friday. This is our last hearing. Comments close on March 6th, 2023 and then we will proceed with reviewing all comments including the testimony presented. And forward our recommendation.

With this being said, we're going to begin the hearing. Sarah, can you let in who have been dinging us and again, if you wish to testify virtually, please raise your hand.

And if you're on the phone, please press Star 5 and we will call upon you.

I dragged it to put him on the page. That's over. You can hold on just a minute here. We're having a little bit of technical difficulties. We'll be right back to you. Just click on the window. It's not letting her thank you sharing the PowerPoint and so it's. Keeping that as the screen. So she's just gonna stop sharing? Yeah. Can you stop sharing it? I can't because yeah.

Hold on, we'll be right back with you.  
Maybe she's gonna leave and come back, alright.

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With that we are back. Hopefully everyone has been admitted that has asked to be admitted. The first one I see Mark for you to testify. You have the floor, Sir. Again, if you wish to testify, please raise your hand and we will call upon you. If you're on the phone and wish to testify, please push Star 5 and we will call on you. Thank you, Mark. The floor's yours.

38:05

Thank you, director. Really appreciate you bringing us together today to discuss this very important rule. It's certainly a critical rule for providers, health plans and consumers alike. So thank you for bringing us together. We strongly support the repeal of the 80th percentile rule. We think the time is right. We think it's the right public policy, and we think it's a win, win, win for consumers, insurers and providers alike.

First, I should start to say we understand the need for balance billing protections, right? 2004 certainly a different public policy environment than 2023. And at the time it made sense. But fortunately, we have the luxury of kind of 20 years of seeing other solutions arise and there are ways to protect consumers from balance billing that don't have the detrimental cost impacts that we've seen under the 80th percentile rule. As you mentioned in your opening remarks, the No surprises act that really was landmark. I had the privilege burden something not sure what it was working within Aetna on both the federal legislation in the last two years implementing that legislation, and I can tell you a couple things about the NSA of why it would make sense to implement those policies in Alaska. The things that would have been improved upon the 80th percentile rule. And there's still a few hiccups with the NSA, but none of those are actually felt by the consumers. And that's my main point with the NSA that I want to impart on you today. It does its job of protecting consumers against balance bills.

Providers understand that. Facilities understand it. They understand where the NSA actually applies, as you mentioned, emergency care, facility based care and network setting or with area ambulances, which I know is of extreme importance for certain parts of Alaska and it is doing its job of keeping the consumer out of the middle. And how does it do that? It prohibits the consumer from getting the bill to begin with, which is an important step, right. Once they've had the incident and the facility and an ER, they shouldn't have to think about that secondary bill that comes to the 3-4 months later that genuinely is a surprise. That's the moniker. Other things that are working under the NSA. What it requires of carriers is to actually pay the median contracted rate right out the door and they pay it directly to the provider. Oftentimes in an out of network situation, carrier, you know claims can end up going to a consumer, it can end up going to a payer of an employer. Payer it can, it is. There's no contractual relationship dictating the terms of where that payment because it's an out of network provider. Under the NSA, if it, you know, if the claim is subject to the parameters of that rule, that payment goes directly to the provider, the provider doesn't wait. There's timely payment standards. That's a clean claim. It comes in within 30 days that providers paid and they're paid at minimum the median contracted rate. And I'll come back to that median contractor rate and what that means for last specifically and a couple of minutes from there if there is some kind of dispute around what that payment was the provider or health insurer if they wanted to. Can trigger a negotiation process. That negotiation process

also has time limits, and if that dispute continues beyond the negotiation process, it can then end up in an independent dispute resolution process.

I will be completely honest. The independent dispute resolution process is still kind of finding its footing on a national level. The volume is higher than anybody anticipated and it is not the most easy administrative fix. But what the important part that I can assure you both providers and plans are winning. And what that tells me is, is not a lopsided process. It does protect providers and ensure that if the median contracted rate doesn't account for the complexity of the case, they have recourse to get paid more. And if a provider, um, I'm just going to use the simplest, probably dumb example I can think of. If you go into an ER and you get 3 stitches and you're out of there in 15 minutes and the provider wants to build it at a level 5 instead of a level 1 trauma, the IDR process also won't reward that, right? And so that's kind of the critical component is it, does it take into account the complexity of the case? By and large, we found that it has got to get through some administrative hiccups and how it's being implemented. But beyond that, the NSA is actually working, the consumers protected, providers are being paid, and if necessary, they're being they're able to recoup for the complexity of the case.

And I bring all that up to say, that's the background that most states are working under right now. And so for Alaska to stay in the 80th percentile rule and continue to pay at a rate that far exceeds the median contracted rate, who actually bears the brunt of that? It's not insurance, it's Alaskans. Right. It's, it's everyday people who have an emergency who do the right thing and end up in an in network facility and have no choice about who some of the providers they see are in those situations. And so that's why we think the time is right for protecting all Alaskans and implementing kind of NSA standards as opposed to the 80th percentile rule.

Some of the impacts that we've seen within our own data that are pretty illuminating. It is 500% more likely that your bill will be paid on the NADA network basis in Alaska then the lower 48 and that doesn't mean that it's 500% more added network providers. That means that when we look at our total cost of care, 25% of our spend in Alaska is out of network versus 5 nationally. That is a dramatic impact that we don't see other places.

How does that actually translate to contracts? And this is where it gets really interesting. Right now when we go in and speak with a group of facility based providers, they know that if they walk out the door without a contract, they're likely to get paid under the 80th percentile rule, whether it's through you know, state employee plan or a fully insured plan.

And that provides an enormous amount of leverage. And how is that leverage actually translated? The median contracted rate in Alaska for services that are subject to the NSA or surprise billing protection is 190% higher than the median contracted rate in the lower 48. That means everybody's paying for it because those contracts extend into the self insured market and importantly for the individual walking into the ER, they extend to your out of pocket cost. And that's really the last point of data that I want to leave you with. Let's say. And I literally slipped on the ice and fell on the road 10 minutes ago trying to get to the building. I am OK fortunately I think I need to go to the ER. However, had I needed to go to the ER for just a normal ER visit in Juneau 80th percentile, about \$2500. Median contracted rate about \$450. That means for me individually, my out of pocket cost would go down from \$500.00 to 90.

And that's a very specific real world example of why it's important to move the consumer protections in place towards a more modern surprise billing solution. And it's like we said, it's a win, win, win. There are providers who will lose revenue. I can't sit here and tell you everybody's going to make the same amount of money. What I can tell you is based on contracting dynamics and the NSA benchmark that dates to 2019. That 190% that I mentioned earlier, that's a real number. You're still getting paid more than just about every provider type nationally as a result of the fact that providers have been able to negotiate with the 80th percentile rule they're back and providing them leverage for the last nearly 20 years. A couple other notes, just things we've heard in previous hearings that I think are worth talking about.

Does this mean that we can simply drop all providers, drop all provider contracts, send everybody out of network, pay them a median contracted rate, which we can eventually drive down somehow? Well, first of all, the NSA has benchmarked 2019, and it has an escalation inflation from there. So we can't just simply drag down that number. It's fixed. We can never recoup that. It's not like we can suddenly make that go away. The other half of it, if we suddenly had networks with no providers in them, I think you as the Director of insurance might have an opinion upon that based on network adequacy. Yes, exactly. And then behind that, we have CMS network adequacy rules. And then the third prong of that is employers don't want super skinny networks, I can tell you is somebody's been in the industry for 15 years. We do not sell well when we go to an employer and say, hey, by the way, this actually doesn't have any anesthesiologist in network or we don't actually have any ER docs in network, right. We are trying to build robust networks. Of course we want to control cost and sometimes that means one system is in and one system is out, but we can't just give a blank slate and say, yeah, it doesn't matter, right, we.

Have robust and adequate networks. A couple of the other things we've heard about in previous conversations, the idea of a state needing to establish an all payer claims database before the rule changes. I would note that having been involved in the implementation and ongoing compliance with a lot of all payer claims databases. They certainly have value. Uh, Aetna complies with APCD laws and regulations and any number of states. We're all about transparency. We try and have our own transparency tools. There's certainly new federal paradigms under the same law actually, that set up the No surprises act and other interoperability rules that require further transparency. And I happen to live in Colorado, which has one of the most robust APCD's in the entire country. And I can tell you that nothing in that APCD is going to change one way or the other whether or not consumers should be protected against the surprise bills. What it can do is help with benchmarking cost and you can have certain amount of line of sight onto what build charges are, what allowed amounts are. But you don't need that in place to protect the consumers on the front end, right? If over the next several years and APCD is well established in the Alaska and you find out that there's been some dramatic shift in payments that would have formally fallen under the 80th percentile rule, you can look at it. But I can tell you with vast amount of certainty it's going to end up closer to the median contracted rate which is more market based and what the rest of the country does and you don't have those detrimental cost and contracting impacts by moving in that direction.

And the last thought is around workforce and. I've lived in rural areas a lot of my life. I would like to go back and live in more rural areas for the rest of my life and get away from the suit and

tie that I'm currently wearing. Workforce is an issue everywhere. I understand that there are special workforce dynamics in Alaska more so than probably just about every other state, with maybe a few rare exceptions in the lower 48 or Hawaii.

You can't solve workforce dynamics simply by saying alright, we'll just keep paying you more and more and more based on a billed charge paradigm that's completely under your control. Because what that tells every other Alaskan is their well-being is worth more than yours and I don't think that's how any providers act. I happen to be married to a provider, so this is a little personal for me. Providers want to provide care and yes, they should be handsomely compensated for it.

But to say that the only thing keeping providers in Alaska today is 80th percentile rule. And suddenly, if that rule goes away, everybody's going to be working in Seattle. I think ignores there are still some basic principles around supply and demand economics. If there aren't enough of something, we as insurers will have to pay for it and hospitals who want ER to remain open will have to pay for it. And there is still the general supply and demand, supply and demand dynamic around workforce.

There aren't enough providers in New York City, they're not enough providers in LA, and there's not enough providers in Anchorage or Juneau. That's kind of the reality of the healthcare world we live in right now. What we shouldn't do is use that as an excuse to keep Alaskans subject to an 80th percentile rule that while originally having a very justified purpose, we believe it's run its course and deserves to be repealed. At this point in time, I'd be happy to answer any questions. Otherwise, thank you for the opportunity.

50:05

Thank you, Mark. I appreciate the testimony.

For those on the line, again, if you wish to testify, please raise your hand and we will call upon you. Those on the phone, please dial Star 5 and we will call upon you. At this time, there is no one in the State office building to testify and I don't see any hands that have been raised to testify. So we will mute the lines and as someone comes to testify, we will come back on. I appreciate all your patience today.

57:52

I'm Lori Wing-Heier, I'm the director of the division of Insurance for the State of Alaska. It's approximately 1:30 PM and we have someone to testify in the State Office Building in Juneau. Gary, the floor is yours.

Thank you, director wing higher and thank you for this proceeding. The rulemaking that you have underway that we're here to talk about today is one for which we are deeply grateful to you and to Commissioner Sande and even Governor Dunleavy. So thank you very much to all of you for the record, good afternoon. Gary Stranagain from Premera Blue Cross Blue Shield of Alaska. At Premera, you know, we feel that efforts to promote the affordability of our products are key to

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continue to be able to provide care for our customers, which is why we exist. This is because affordability has become the highest bar a person must clear in order to gain access to health insurance and then healthcare and my testimony, which I hope to keep brief.

Yeah, I'll touch on how and I last week I had a cold, just a cold tested, so I'll rely upon my water when I get a little froggy so forgive me.

So in my testimony, I'll touch on how the 80th percentile actually works, unless Mark has done that already. And explain why to some degree the inflationary impacts are responsible to directly how it works, our intent post repeal, the \$100 million fraud, that is currently being perpetrated against Alaskans, which is enabled by the 80th percentile and the federal No Surprises Act. So we've got some work to do here. I'll get right to it. So while well intended, the 80th percentile has had a profoundly negative impact on affordability of healthcare in Alaska, and it is contributed to Alaska being the most expensive healthcare marketplace on the planet. So and it also has also contributed almost by definition to healthcare inflation in the state. So. very rudimentarily. The 80th percentile works thusly so and the top three. If you were to take bills for like services in a Geo, zip or an area and arrange them from least expensive to most expensive, the top three all get paid at the rate of this this one. So that's the 8th one actually 10th, 9th, 8th, 80th percentile. The top three get paid at that 80 percentile to all the others get paid bill charges. And here's why it's inflationary all those.

Others get a very clear message from their insurer when they get paid bill charges when they get paid what they ask for, which they thought might have been egregious, but when they get paid what they ask for, they know that there are others that are getting paid more. So by golly, I'm going to increase it next time. That's why it's inflationary so.

The and the report some some few years ago by UAA states that and I'm going to quote of the 80 percentile accounts for quote between 8.61 and 224.65% of the increases in expenditures the state has experienced over the last decade. These results are statistically significant and robust. End of quote.

Eventually, these increases that the UAA report spoke to are borne by employers and consumers, so for our own, for our data, Premera data, prices are higher for virtually every service you can imagine and the healthcare ecosystem, I'm just going to mention a couple of them. COVID-19 lab tests, just your standard run-of-the-mill COVID-19 antigen antigen lab test in Washington state for out of network service, that's \$40.00 on average in Washington. In Alaska is \$139 on average. There are some that pay that to get considerably more. The Alaska average is nearly 350% more than the Washington average and and behavioral health specialties that's not as egregious as the COVID-19 lab test 60% more for on average for behavioral specialties in Alaska than in Washington state. So supporters of the 80 percentile regulation of keeping it may threaten to leave the state if they are not permitted to submit bills for their services under the 80th percentile. Conversely Premera, rather than threatening to leave, has been serving Alaska since before statehood, and our commitment remains unwavering.

Along with our customers, we need our providers. Our intent is to negotiate fair rates with them so that our Members can more readily and affordably access services on an in network basis. It's. It's also important to note that no state has a rule that resembles the 80th percentile.

So an earlier speaker at one of the previous hearings suggested that insurers will simply pocket the savings that stem from repealing the 8th percentile regulation. As the insurance regulator in the state with the authority to review and approve or disapprove our filings. I don't need to tell you that this is incorrect. You know, there's uh. There's the regulatory supervision and there is a little known feature of the Affordable Care Act that requires insurers to refund premium when the cost of our care for our Members does not exceed 80% of the premium we collect in that year. So let me say that again, we refund premium.

This is known as a medical loss ratio rebates. The entire operation of our business is limited to that 20% of premium including taxes and everything else that we do. No one else in the entire healthcare ecosystem has a government agency reviewing and approving their charges, and nor do they pay refunds when they have excess profits. All this to say, insurers will not have the latitude to simply pocket the savings as was suggested.

So now I'd like to discuss the massive fraud that I alluded to in the beginning. It seems as though an entire cottage industry has emerged in the lower 48. To fraudulently encumber Alaskans with massive debts that will be payable in their insurance premiums. Here's how it works. So a lower 48 fraudster recruits someone suffering from substance use disorder. Then they falsify an Alaska residents for that person. And they signed them up for Premera or other Alaska insurance policy and pay the premium for them. Then these, I call them invented Alaskans are admitted for inpatient SUD treatment, and the health plan is billed outrageous sums. We've seen bills that exceed \$8000 per day for these services, when by comparison here in Alaska, those services range from 170 to \$700.00 per day. So without the 80 percentile this, the fraudsters would be constrained by the federal no surprises act, presuming they're out of network. To the median in network rate, or something close to it, thus eliminating the fraud incentive altogether. However, under the 80 percentile, the fraudsters can build anything they want.

The percentile rule was enacted in 2004 to protect people from surprise billing Congress. Enacted the federal No Surprises Act in 2020, also protecting people from surprise billing, but with the key distinction. That the federal no surprises Act has a dispute resolution mechanism that is not inflationary.

In conclusion, now that Congress has enacted the No Surprises Act, it is time to repeal the 80 percentile and ride Alaskans of its costly impacts.

Thank you.

1:07:00

Thank you, Gary, for your testimony. We do not have anyone else in the State office building to testify and I do not see anyone raising their hand. Again, if you wish to testify, please raise your hand and we will call upon you. If you are in the virtual room, if you are on the phone, please press Star 5 and we will call upon you to testify. At this time, we're going to go on mute and we will come back to you when someone is here to testify. Thank you.

1:47:20



Hi, this is Lori Wing-Heier, the director of the Division of Insurance. Just checking in the time is 2:19. Just to let you know, we are still here in the State Office building. We see people online. Again, if you want to testify, please raise your hand. If you're in the virtual room, if you're calling in, please dial Star 5 and we will admit you to testify. We will stay on mute checking in occasionally to let you know we're here, but we will stay on mute until someone either raises their hand, presses star Five or shows up in the State office building to testify. Thank you.

2:20:33

Hi, this is Lori Wing-Heier, the director of the Division of Insurance for the State of Alaska. It's approximately 2:52 and we're just checking back in to let people know that we're here in the State office building in Juneau, AK. We do not have anybody in the building or in the conference room to testify. And I've not seen anyone either in the virtual room or on the phone raise their hand to testify again if you are attending in the virtual room via Teams, please raise your hand if you wish to testify. If you are on the phone, please press star 5 to testify. We will check in periodically or when someone raises their hand, presses star five or shows up in the State office building to testify. Thank you.

2:40:57

Good afternoon. It's about 3:12 right now and this is Laurie Wing-Heier in the State office building and we have Mr. Spencer Mills who has raised his hand to testify. Mr. Mills or Doctor Mills, I'm not quite sure, the floor is yours.

2:41:39

Can you hear me OK? So you can hear me? Yes, Sir. OK. I thought I would say something. Uh, my name is Spencer Mills. I'm a healthcare administrator. I work with, with and for doctors. I I've done that for 20 years.

I live in Eagle River and work in Anchorage and we're all sitting here at our desk working, because we don't really have the luxury of taking time off to attend hearings. And we, you know, generally, certainly our organization does not have a lobbyist, a high paid lobbyist who can come and attend the meeting. But I believe, you know, I believe I'm speaking for a lot of people. I believe by reliable information that hundreds of doctors oppose this change because it will lead to greater bargaining power on the part of payers versus providers. And it is not at all clear that that is going to reduce costs to patients. In fact, it may in fact increase the cost.

Now, I know this about the doctors because I'm a member of the various organizations like FEMA and ACHE, where the Members who are administrators like me oppose this because it will impact their doctors. So let me be clear, I am not speaking for those organizations because I am not empowered to do so. And some of those organizations have lobbying arms and some of them are this educational empower organizations, I'm simply saying that our doctors oppose this rule change and do not want to see it eliminated. We're not like the big insurers. Our doctors work hard to provide Alaskans with the care that they need and our organization, OK, we are 27% Medicaid and then we see Medicare and Tricare patients and believe me as the administrator who pays the doctors and pays all the bills and the payments we receive for these patients barely cover the cost, if they even do. I know one thing we would not be seeing patients in Alaska, these patients in Alaska if we had to depend on God on government payers.

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Uh, so why do we do it? Why do we see these patients? Uh, is it simply to fill our patient rooms with more patients? No, we see the most vulnerable populations of patients because it is the right thing to do for Alaskans, and believe me, we don't have and even get paid for that. OK. And all the providers out there know this? OK, it is very hard to get paid from government payer. If you do not dot your eyes and cross your T's, you're out of luck, OK, even when you took the time to see a bonafide patient from a vulnerable population like women and children and single moms and other vulnerable populations.

We take the time to see these patients because otherwise they would have nowhere to go. Uh and but we're penalized for this, OK? And it's only by having, uh, the private payers that we're able to make it. OK, so why do I bring this up? Well, because we can't afford, like I said, to send fancy lobbyists to Juneau to testify. Our doctors are busy seeing those vulnerable patients, too busy to carve out time to attend this meeting, that's for sure. Or if they do, they're they're doing it. Like, like most of them. They're probably online here today and busy working at their desk like me. OK, umm, but they do care about this.

And the doctors and providers in Anchorage and throughout the state that I know oppose the change. So why are we oppose the change? Because it will increase the bargaining power of payers like Premera. So Premera's profits or its surpluses, whatever you want to call it, OK, I get it. Whatever you want to call that money coming in is going up while our doctors are getting paid less. Premera flat out denies providers and increase, saying they're doing it statewide, not giving any increases even over the course of four years, all the while their revenues, so their revenues are going up. And they've increased their rates on small businesses like ours. So while we've seen increases in wages are 25% for clinical staff and that is a real increase. Uh. Whatever you want to call it, the great resignation or whatever, our MA's are costing us a lot more than they used to cost us.

And then there's other forms of inflation and rent increases and you know, the list goes on. But we don't get any increases from Premera. OK. And you know I I even just saying this all this stuff because you know we're just a little we're the little guys.

Eliminating the 80% rule will give the payers like Premera more leverage and that's why they support this more leverage with all private providers across the board, not just the out of network providers or for the out of network patients which everybody so well this is just an out of network patient thing. Um. No, if providers can't go out of network, there's no incentive for primarily come to the negotiating table. But the only way that we can continue to see vulnerable population Alaskan populations is to have payers for which the cost of our services are covered. Premera is saying that they want this repeal because it will help patients. But there is, like I said, there's a material difference of opinion on the mathematics of that, you know, meaningful difference of opinion on the impact of the change.

We believe that patients will incur more of the burden of their care as their copayments go up. So and and he talked about the, you know the price transparency rule and and all of those others taking place at both the state level and the and the national level. We have to post our, our prices are posted on our website, they're sent to the department, they're in our lobby. OK. But we don't

get paid all of those prices. We don't get paid all of those prices, come on. So we here in Anchorage, where most of the populations of Alaskans live, there's a lot of competition among providers. We have little ability to negotiate with payers like Premera because they have a virtual monopoly on the state and we're small organizations. They can pick us off individually. So maybe increasing the competition among payers is a better way to help things. Then they must compete for providers, but if they have more negotiating power we're left with lower rates as inflation eats away at our life, our livelihoods, and know the livelihoods of our doctors. If you make a change to one but you don't make you know to that increases their market power, but you don't make any change to the other, well, that that's not going to help the patients, OK, so. Making this change is, um, they may say, well, let's try that. The cost of Healthcare is going up. OK, well, it's, you know, it's not, it's not because the doctors are making a lot more money.

Does that conclude your testimony, Mr. Mills? I don't want to interrupt you.

2:50:25

Yes, thank you so much. I really appreciate everybody listening. I know it's a little bit long winded.

No, that's fine Sir. We appreciate you calling in.

I don't normally do this. Thanks so much.

Thank you for testifying, Sir. Have a good day.

2:58:43

Hi, this is Lori Wing-Heier in this 3:30 and we have someone with a the last four digits of your phone number is 4134. You have indicated you want to testify. If you will press star 6 on your phone, the floor is yours. You can begin your testimony.

Hi, good afternoon. Can you hear me?

Yes we can.

Thank you. My name is Bonnie Payson. I'm the executive director of the Pacific Health Coalition, which is a private, nonprofit collection of 49 self funded health plans covering about 250,000 people in Alaska and the Pacific Northwest. Our Members wholeheartedly support repeal of the 80th percentile regulation as proposed by the division of Insurance.

I have decades of experience serving on health committees. Healthcare services in Alaska are commonly billed at rates five times higher than other providers located in the Pacific Northwest. One of the clear reasons for the disparity is the section of the code known as the 80th percentile. In 2018, an ICER study was published for the Alaska Office of Management and Budget definitively identifying the 80th percentile regulation as the cause of between 8.61 and 24.65% increases in healthcare spending in Alaska.

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The regulation required insurance companies to consider payment for non-contracted services at the 80th percentile of all healthcare provider charges for that service. As providers raise their rates, the 80th percentile point moved up with them. This resulted in out of network providers setting the price. And the state compelled insurers to use those inflated prices for settlement. There is no reason for a provider to contract at a discount when they can control the rate of the increase simply by raising their price.

Insurance rates necessarily increased in order to collect enough to pay the higher claims. Self-funded plans experience the same increases. Employers and employees of school districts, the university, municipalities, trades and the state of Alaska struggle to respond, often shrinking the real income of working families just to make sure funds were available to pay unnecessarily higher health services cost.

Over the years payers, consumers and providers have joined each other at the table to discuss ways to correct the high cost of healthcare in Alaska, including the cost of workers compensation, coverage rates so far above Seattle and other benchmarks simply cannot be justified and should not be further enabled by this outdated regulation. Repeal of the 80th percentile won't solve solve all our pricing problems, but it will certainly fix one element and we'll set the stage for more effective contracting for insured and self funded payers and their plan participants alike.

Please repeal the 80th percentile regulation as soon as possible. Thank you.

3:02:21

Thank you for your testimony, Bonnie. Bonnie, we do appreciate it.

Thank you.

3:42:27

Hi, this is Lori Wing-Heier, the director of the Division of Insurance for the State of Alaska. It's about 4:15. We're just doing one more final check in to let you know that we're here in the State office building in Juneau. We do not have any hands raised to testify either on the phone or in the virtual room, the Teams connection. And as I said, there's no one in the the state office building either. We will be here till 5:00 o'clock and if anyone raises their hand, presses star five or shows up to testify we will unmute the line. Thank you.

4:27:06

Good afternoon. This is Lori Wing-Heier. I'm the director of the division of Insurance for the State of Alaska and we have been in the State office building, a conference room on the 9th floor for the four hours hearing testimony on what is known as the 80th percentile rule. I thank all of those who have participated. We will be posting written comments on our website as soon as they are all gathered. And we will also post the recordings for the three hearings, the two last

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week in Anchorage as well as this hearing in the very near future, probably sometime next week. I think again I thank you all for participating. It is now 5:00 o'clock and the hearing is over.

Thank you.