



NOTICE OF PUBLIC SCOPING FOR POSSIBLE CHANGES TO 3 AAC 26.110

The Division of Insurance is soliciting proposals of amendments or alternatives to regulation 3AAC 26.110, the "80th percentile rule" that would provide equal or greater consumer protection. This comment period will be open until June 30, 2018. The division is specifically seeking alternatives that dually address potential impacts on the cost of care and protecting consumers from surprise balance bills from out of network providers.

3AAC 26.110 entitled "additional standards for prompt, fair, and equitable settlements of health care" was amended in 2004 to provide that the final payment for a covered service or a supply shall be based on an amount that:

- "(A) reflects the general cost difference between the geographic area where the service is performed and the other geographic areas used in establishing the statistically credible profile under (1) of the section; the adjustment may be based on the Consumer Price Index, the medical care component of the Consumer Price Index, or another reasonable basis stated in writing; and
- (B) is equal to or greater than the 80th percentile of charges under (1) of this subsection for health care services or supplies....".

The rule applies only to fully insured plans in the individual, small group, and large group health insurance markets. Self-funded plans are not subject to regulation by the Division of Insurance.

The division held two public scoping hearings on January 6, 2017. Over sixty (60) written comments were received and there was substantial public comment during the hearings. The majority of the comments were in favor of the 80th percentile.

The Office of Management and Budget with the assistance of University of Alaska has conducted further analysis of the impact that the 80th percentile may have had on the cost of health care in Alaska. Their recent analysis indicates an increase in overall Alaska health care expenditures in years following passage of the rule, but does not present a definitive conclusion due to limited data sets and a number of confounding variables.

As the State continues to explore solutions to increase access to health care, contain costs, including out-of-pocket costs to consumers, and support Alaska's medical community, the 80th percentile rule merits further evaluation. Therefore, the division is seeking input from Alaskans on other ways these goals might be met including the repeal or amendment of the 80th percentile.

Please provide your written comments to Lori Wing-Heier, Director of the Division of Insurance at the following address:

550 W. 7th Avenue, Suite 1560
Anchorage, AK 99501

Comments may be submitted via email to insurance@alaska.gov. Please reference May 2018 – 80th Percentile Comments.

The public comment period will close on June 30, 2018 at 5:00 pm Alaska Standard Time.