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**OFFICE OF THE LIEUTENANT GOVERNOR
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M E M O R A N D U M

TO: Linda Mattson
Department of Commerce, Community, and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: October 2, 2018

RE: Filed Permanent Regulations: Division of Insurance

Division of Insurance regulation re: Alaska Comprehensive Health Insurance
Association (3 AAC 31.510 - 3 AAC 31.535)

Attorney General File:	2018200679
Regulation Filed:	10/2/2018
Effective Date:	11/1/2018
Print:	228, January 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER RA 18-01 ADOPTING CHANGES TO
REGULATIONS OF THE DIVISION OF INSURANCE

The attached six pages of regulations dealing with the Alaska Reinsurance Program to reinsure high risk residents by changing the reporting dates and payment dates to align with ACA filing deadlines; adding a requirement that Alaska Reinsurance Program will not use federal funds for coverage of abortion services, are adopted and certified to be a correct copy of the regulation changes that the Division of Insurance adopts under the authority of AS 21.06.090; AS 21.55.040; AS 21.55.220; AS 21.55.400 and AS 21.55.430; and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Division of Insurance paid special attention to the cost to private persons of the regulatory action being taken.

The regulations adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

Date: August 28, 2018



Lori Wing-Heier, Director
Division of Insurance
Department of Commerce, Community, and
Economic Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on October 2, 2018, at 8:55 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective November 1, 2018.

Register 229, January 2019

Title 3. Commerce, Community, and Economic Development

Part 2. Division of Insurance

Chapter 31. Miscellaneous.

Article 4. Comprehensive Health Insurance Association Reinsurance Program.

3 AAC 31.510. (a) ⁽³⁾ is amended to read:

(((Publisher: No changes to 3 AAC 31.510 (a) (1), (2).)))

~~(a) The association shall establish a plan of operation for the administration and operation of the Alaska Reinsurance Program under which a health care insurer shall cede the risk of a high risk resident to the program. The plan of operation must include~~

~~(1) a description of the data a health care insurer submitting a reinsurance payment request must provide to the association for the association to implement and administer the reinsurance program, including data necessary for the association to determine a health care insurer's eligibility for reinsurance payments;~~

~~(2) guidance to insurers relating to diagnosis codes for identifying residents with covered conditions under the program;~~

~~(3) the manner and time period in which a health care insurer must~~

~~(A) provide the data described under (1) of this subsection;~~

~~(B) **pay the quarterly**~~

~~**(i) premium amounts required to be paid under 3 AAC**~~

~~**31.515(b); and**~~

~~**(ii) pharmacy rebates required to be paid under 3 AAC**~~

~~**31.515(c); and**~~

this section

(C) cede risk under 3 AAC 31.510;

~~(4) requirements for reporting and processing reports submitted by health care~~

insurers as required by the association;

(5) requirements for conducting audits under 3 AAC 31.530; and

(6) details of an annual actuarial study of this state's individual market that

(A) measures the impact of the program;

(B) recommends funding levels; and

~~(C) reveals emerging conditions within the market.~~

(((Publisher:
No change to
3 AAC 31.510
(A) (4) - (6).)))

3 AAC 31.510(b) is amended to read:

no bold

(b) The association shall accept a risk ceded to it with respect to a high risk resident in compliance with 3 AAC 31.500 – 3 AAC 31.549 effective on the date coverage becomes effective with the health care insurer and shall continue to accept a risk ceded to it until **March 31** [MARCH 1] of the year following the calendar year in which the high risk resident's coverage becomes effective with the health care insurer or, if earlier, the date on which the coverage terminates or the reinsurance program ceases active operation.

3 AAC 31.510 is amended by adding a new subsection to read:

(d) The association shall ensure, in accordance with applicable provisions of generally accepted accounting requirements, circulars on funds management of the United States federal Office of Management and Budget, and guidance on accounting of the United States Government Accountability Office, that the Alaska Reinsurance Program uses no federal funds for coverage

of abortion services described under 42 U.S.C. 18023(b)(1)(B)(i). (Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220; am 11/1/2018 Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.430
AS 21.55.040 AS 21.55.400

3 AAC 31.515(b) is amended to read:

(b) The health care insurer shall pay to the association the separately identifiable premium amount the health care insurer received under the insurance policy for the applicable benefit year covering the eligible high risk resident **on a quarterly basis** not later than [30 CALENDAR DAYS] **the dates set by the association and specified in the association's plan of operation** after the association accepts a risk ceded to it with respect to a high risk resident. If the high risk resident has a separately identifiable premium equal to \$0, the health care insurer shall pay to the association the highest separately identifiable premium under the family policy. For each additional high risk resident covered under a family policy who has a separately identifiable premium equal to \$0, the health care insurer shall pay to the association the next highest separately identifiable premium under the family policy.

3 AAC 31.515(c) is amended to read:

^{no bold}
(c) A health care insurer shall pay to the association a pharmacy rebate required to be paid to the association under (a)(4) of this section **on a quarterly basis in conjunction with the payment of premiums under (b) of this section** [NOT LATER THAN 30 CALENDAR DAYS

Register 228, January 2018⁹ COMMERCE, COMMUNITY, AND EC. DEV.

AFTER RECEIPT OF THE PHARMACY REBATE]. (Eff. 12/22/2016, Register 220; am
11 / 1 / 2018, Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.400

3 AAC 31.520(e) is amended to read:

(e) A health care insurer **shall** [MAY] cede a risk to the association with respect to a high risk resident [AT ANY TIME] during the period beginning on the date the high risk resident's coverage becomes effective with the health care insurer and ending on **March 31** [MARCH 1] of the year following the calendar year in which the high risk resident's coverage becomes effective with the health care insurer. A health care insurer **required** [THAT WISHES] to cede risk with respect to a high risk resident to the association in a subsequent calendar year shall re-cede that risk for that calendar year. **A health care insurer shall utilize the dates set by the association and specified in the association's plan of operation when ceding a risk required to be ceded to the association under this subsection.**

3 AAC 31.520(f) is amended to read:

(f) A health care insurer shall submit to the program claims incurred during a calendar year for a ceded risk not later than **April 30** [18 MONTHS] after that calendar year for the claim to be eligible for reimbursement from the program. (Eff. 12/22/2016, Register 220; am
11 / 1 / 2018, Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.400

Register 228, January 2018⁹ COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 31.525(d) is amended to read:

(d) Premiums received by the association for the program will be used first to pay, or to establish reasonable reserves for payment of, administrative and operational expenses of the program and second to pay claims for risks ceded to the program. [CLAIMS FOR RISKS CEDED TO THE PROGRAM WILL BE PAID FIRST FROM PREMIUMS REMAINING AVAILABLE AFTER PAYMENT OF, OR ESTABLISHMENT OF REASONABLE RESERVES FOR PAYMENT OF, ADMINISTRATION AND OPERATIONAL EXPENSES OF THE PROGRAM AND SECOND FROM OTHER AVAILABLE PROGRAM FUNDS.] (Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220; am 11 / 1 / 2018, Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.430
AS 21.55.040 AS 21.55.400

3 AAC 31.530(c) is amended to read:

(c) The association shall conduct a final accounting and annual claims true up with respect to each calendar year after April 30 [APRIL 15] of the following calendar year.

3 AAC 31.530(d) is amended to read:

(d) Claims with respect to ceded risk that are incurred during a calendar year and are submitted for reimbursement not later than April 30 [APRIL 15] of the following calendar year will be allocated to the calendar year in which they are incurred. The association may not reimburse claims [CLAIMS] submitted after April 30 [APRIL 15] following the calendar year

Register 228, January 2018⁹ COMMERCE, COMMUNITY, AND EC. DEV.

in which they are incurred [WILL BE ALLOCATED TO A LATER CALENDAR YEAR IN ACCORDANCE WITH THE OPERATING RULES, POLICIES, AND PROCEDURES OF THE PROGRAM].

(Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220; am 11/1/2018, Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.430
AS 21.55.040 AS 21.55.400

3 AAC 31.535(a) is amended to read:

(a) The association shall establish a true-up process with respect to a calendar year to reflect adjustments made in establishing the final accounting for that calendar year, including crediting of premiums received with respect to risk ceded after the end of the calendar year and retroactive reductions or other adjustments in reimbursements necessary to prevent a deficit in the fund for that calendar year and to prevent a windfall to an insurer as a result of third party recoveries, recovery of overpayments, commercial reinsurance recoveries, or risk adjustments made under 42 U.S.C. 18063 (sec. 1343 of the Patient Protection and Affordable Care Act, P.L. 111-148). The true-up must occur after **April 30** [APRIL 15] following the calendar year to which it relates.

(Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220; am 11/1/2018, Register 228)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.430
AS 21.55.040 AS 21.55.400