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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Micaela Fowler, Department of Commerce, Community and Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: November 22, 2016

RE: Filed Permanent Regulations: Division of Insurance

Division of Insurance regulations re: the Comprehensive Health Insurance Association (CHIA) and the reinsurance program under AS 21.55 and AS 21.96.120, as adopted and amended under ch. 5, 4SSLA 2016 (3 AAC 31.500 - 3 AAC 31.549)

Attorney General File:	JU2016200831
Regulation Filed:	November 22, 2016
Effective Date:	December 22, 2016
Print:	220, January 2017

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER RA 16-02 ADOPTING CHANGES TO
REGULATIONS OF THE DIVISION OF INSURANCE

The attached 15 pages of regulations dealing with a reinsurance program to reinsure high risk residents of this state are hereby adopted and certified to be a correct copy of the regulation changes that the Division of Insurance adopts to 3 AAC 31.500 – 3 AAC 31.549 under the authority of AS 21.06.090; AS 21.55.040; AS 21.55.220; and AS 21.55.400; and implementing, interpreting, or making specific AS 21.55.400; AS 21.55.430; AS 21.55.500; and AS 21.96.120, 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.

DATED November 9th, 2016

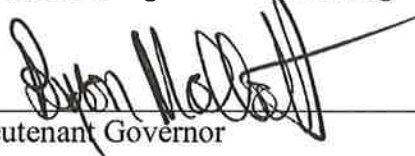


Lori Wing-Heier
Director
Division of Insurance
Department of Commerce, Community, and
Economic Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

November 22, 2016, at 10:5 A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective December 23, 2016

Register 220, January 2017

Title 3. Commerce, Community, and Economic Development.

Part 2. Division of Insurance.

Chapter 31. Miscellaneous.

Article 4. Comprehensive Health Insurance Association Reinsurance Program.

in bold Section

lowercase

500. **Purpose and Applicability** [APPLICABILITY]

505. Establishment of high risk reinsurance program

510. Association duties

in design **515. Health care insurer eligibility for reinsurance payments**

520. Health care insurer duties and rules

525. Premiums and other financial matters

530. **Accounting, reporting, and auditing** [ACCOUNTING AND REPORTING]

535. Annual tune-up *2 true-up*

540. Covered conditions

549. Definitions

3 AAC 31.500 is repealed and readopted to read:

3 AAC 31.500. Purpose and Applicability. *lowercase* (a) The purpose of 3 AAC 31.500 – 3 AAC

31.549 is to

- (1) implement a reinsurance program for high risk residents in the individual health care insurance market in order to stabilize health care insurance premiums;

(2) encourage participation in this state's individual health care insurance market;
and

(3) allow the director to apply to the United States Secretary of Health and Human Services under 42 U.S.C. 18052 for a waiver of applicable provisions of P.L. 111-148 (Patient Protection and Affordable Care Act).

(b) Except for a health care insurance plan providing grandfathered health care coverage and a health care insurance plan providing transitional health care coverage, 3 AAC 31.500 – 3 AAC 31.549 applies to a health care insurance plan in the individual market offered on or off a health care exchange.

(c) A health care insurer shall cede to the program the risk associated with insuring an eligible high risk resident who is issued a health care insurance plan in the individual market on or after January 1, 2017 and before the cessation of the program.

(d) Nothing in 3 AAC 31.500 - 3 AAC 31.549 requires a health care insurer to offer or issue a health care insurance plan in the individual market. (Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220)

Authority: AS 21.06.090 AS 21.55.400 AS 21.96.120

AS 21.55.220

3 AAC 31 is amended by adding a new section to read:

3 AAC 31.505. Establishment of high risk reinsurance program. (a) There is established within the Comprehensive Health Insurance Association a program to reinsure high risk residents of this state diagnosed ^{if above one (excess) of one} with one or more of the covered conditions under 3 AAC 31.540. The program will be referred to as the Alaska Reinsurance Program.

(b) The Alaska Reinsurance Program will have a segregated fund ^{established} within the association ⁴ The segregated fund which will hold all receipts and make all disbursements related to the program. All obligations of the Alaska Reinsurance Program, including payment or reimbursements of claims and expenses, will be limited to the monies available within the program fund.

(c) The association shall administer the reinsurance program under a contract with the director. The program will have its own plan of operation to establish administrative and accounting procedures necessary or proper to implement and administer the program.

(d) The Alaska Reinsurance Program ^{becomes} will be effective ¹ January 1, 2017. (Eff. 12/22/2016, Register 220)

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

3 AAC 31.510 is amended to read:

3 AAC 31.510. Association duties. (a) The association shall establish **a plan of operation** [ADMINISTRATIVE AND ACCOUNTING PROCEDURES] for the **administration and** operation of **the Alaska Reinsurance Program** [A REINSURANCE PROGRAM] under which a health care insurer **shall** [MAY] cede the risk of **a high risk resident** [ELIGIBLE INDIVIDUALS] to the **program** [ASSOCIATION]. **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) timeframe in which a health care insurer must provide the data described under (1) of this subsection;

(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) the Alaska individual market that

(A) measures the impact of the program;

(B) recommends funding levels; and

(C) reveals emerging conditions within the market.

(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 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 [AS LONG AS THE INDIVIDUAL REMAINS INSURED UNDER THE SAME HEALTH CARE INSURANCE PLAN WITH THE SAME HEALTH CARE INSURER].

ms bold or underline

Register 220, January 2016 7 COMMERCE, COMMUNITY, AND EC. DEV.
3 AAC 31.510 is amended by adding a new subsection to read:

(c) The association shall establish a process to reimburse participating health insurers for claims paid with respect to risk ceded to the program on a quarterly basis. (Eff. 2/2/2013, Register 205; am 12/22/2016, Register 220)

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

3 AAC 31 is amended by adding a new section to read:

3 AAC 31.515. Health care insurer eligibility for reinsurance payments. (a)

A health care insurer is eligible for reinsurance payments to reimburse the insurer for the claims of a high risk resident for a benefit year if when the health care insurer

(1) provides evidence to the association that the health care insurer has paid a claim of a high risk resident for the applicable benefit year that is for a covered condition listed under 3 AAC 31.540;

(2) continues to pay the claims of a high risk resident for the applicable benefit year;

(3) pays to the association, under (b) of this section, the premium amount the health care insurer receives under the insurance policy for the applicable benefit year covering the eligible high risk resident;

(4) pays to the association, under (c) of this section, pharmacy rebates the health care insurer receives for the applicable benefit year for health care services provided to the applicable high risk resident; and

(5) reports to the association payments, applicable to the high risk resident, the health care insurer collects for

- (A) third party liabilities;
- (B) payments the health care insurer recovers for overpayments;
- (C) payments for commercial reinsurance recoveries; and
- (D) estimated federal cost sharing reduction payments made under 42 U.S.C. 18071.

(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 not later than 30 calendar days after the association accepts a risk ceded to it with respect to a high risk resident. If the high risk resident is covered under a family policy and 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.

(c) A health care insurer shall pay to the association a pharmacy rebate required to be paid to the association under (a)⁽⁴⁾(3) of this section not later than 30 calendar days after receipt of the pharmacy rebate. (Eff. 12 / 22 / 2016, Register 220)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.400

3 AAC 31.520 is repealed and readopted to read:

3 AAC 31.520. Health care insurer duties and rules. (a) A health care insurer shall comply with the requirements established by the association in order to cede a risk to the association.

(b) A health care insurer shall continue to administer and manage the policy for risk ceded to the association in accordance with the terms of the insurance policy and with the insurance law of this state.

(c) A health care insurer shall offer individuals that may be ceded to the association the same plans offered to other individuals.

(d) A health care insurer may not vary premium rates based on whether a risk is ceded to the association.

(e) A health care insurer 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 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 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.

(f) A health care insurer shall submit to the program claims incurred during a calendar year for a ceded risk not later than 18 months after that calendar year for the claim to be eligible for reimbursement from the program. (Eff. 2/2/2013, Register 205; am 12/22/2016

Register 220)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.400

3 AAC 31 is amended by adding a new section to read:

3 AAC 31.525. Premiums and other financial matters. (a) A health care insurer shall forward all premiums to the association for each risk ceded to the program and may not retain any portion of the premium.

(b) A health care insurer shall report to the association amounts collected by a health care insurer for

- (1) third party liabilities;
- (2) overpayment recoveries;
- (3) estimated federal cost sharing reduction payments made under 42 U.S.C.

18071;

- (4) commercial reinsurance recoveries;
- (5) pharmacy rebates; and
- (6) any other similar amounts with respect to risk ceded to the program.

(c) The association shall retain ~~any and~~ all premiums it receives in excess of administrative and operational expenses and claims paid for ceded risks in ³ ~~that~~ calendar year and shall apply any excess premiums toward payment of future administrative and operational expenses and claims incurred by ceded risks in subsequent years of the program.

(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

Register 220, January 2016 ¹⁷ COMMERCE, COMMUNITY, AND EC. DEV.

of reasonable reserves for payment of, administration and operational expenses of the program and second from other available program funds. (Eff. 12/22/2016, Register 220)

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 is repealed and readopted to read:

3 AAC 31.530. Accounting, reporting, and auditing. (a) A health care insurer that cedes a risk to the program shall submit to the program all data and information when required by the association and in the manner and format required by the association. The data and information must include

- (1) eligibility information;
- (2) claims information; and
- (3) premium information.

(b) The association shall maintain its books, records, accounts, and operations on a calendar year basis.

(c) The association shall conduct a final accounting with respect to each calendar year after April 15 of the following calendar year.

(d) Claims with respect to ceded risk that are incurred during a calendar year and are submitted for reimbursement not later than April 15 of the following calendar year will be allocated to the calendar year in which they are incurred. Claims submitted after April 15 following the calendar year 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.

(e) If the total receipts of the fund with respect to a calendar year are expected to be insufficient to pay all program expenses, claims for reimbursement, and other disbursements allocable to that calendar year, all claims for reimbursement allocable to that calendar year will be reduced proportionately to the extent necessary to prevent a deficit in the fund for that calendar year. Any reduction in claims for reimbursement with respect to a calendar year will apply to all claims allocable to that calendar year without regard to when those claims are submitted for reimbursement, and any reduction will be applied to each claim in the same proportion.

(f) The association shall establish a process for auditing each health care insurer ceding risk to the program. Audits may include both a baseline audit conducted in connection with commencement of an insurer's participation in the program and periodic audits up to four times ^② per year throughout the insurer's participation in the program.

(g) The association shall engage an independent qualified auditing entity to perform a financial and programmatic audit for each benefit year in accordance with generally accepted auditing standards. The association shall provide a copy of the audit to the director at the time the association receives the audit. The association shall make a public summary of the results of the audit. The public summary must be made available ^{within a time period} in a timeframe and ^{in a} manner that a prudent person would consider to be timely and informative.

(h) The director or the director's designee may conduct financial and programmatic audits of the reinsurance program and the association to assess compliance with

- (1) 3 AAC 31.500 – 3 AAC 31.549;
- (2) the contract between the director and the association; and

Register 220, January 2018 ⁷ COMMERCE, COMMUNITY, AND EC. DEV.

(3) the plan of operation established for the administration and operation of the program. (Eff. 2/2/2013, Register 205; am^y 12/22/2016, Register 220)

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

3 AAC 31 is amended by adding ^y a new section ^{U.S.} to read:

3 AAC 31.535. Annual true-up. (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 142 U.S.C. 18063 (sec.) ~~Section~~ 1343 of the Patient Protection and Affordable Care Act, P.L. ^y Pub. L: 111-148. The true-up must occur after April 15 following the calendar year to which it relates.

United States Department of Health and Human Services, Centers for Medicare and Medicaid Services,

(b) With respect to the risk adjustment transfers as determined by the ~~Federal~~ and Center for Services, Consumer Information & Insurance Oversight (CCIIO),

(1) the director or the director's designee will review the risk adjustment transfers to determine the impact of the ceding of risk to the program;

(2) the review will occur not later than 60 days after publication of the notice of final risk adjustment transfers by CCHO;

the Center for Consumer Information and Insurance Oversight;

(3) the director or director's designee will notify a health care insurer of the amount of any risk adjustment transfer it received that does not accurately reflect benefits provided under the program and

(A) the health care insurer shall pay that amount to the program not later than 30 days after receipt of the notice from the director or the directors' designee; and

(B) as appropriate, the director or the director's designee will refund that amount to the health care insurer or insurers that made the federal risk adjustment payment; and

(4) to facilitate the true-up process, a health care insurer ^(shall) must submit to the director or the directors' designee, in a form and manner determined by the director or the directors' designee, all data requested by the director in a data call in March of the year following the year to which the risk adjustment applies. (Eff. 12/22/2016, Register 220)

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

~~3 AAC 31 is amended by adding a new section to read:~~

(to bold the period)
← **3 AAC 31.540. Covered conditions.** A resident of this state diagnosed with one or more of the following covered conditions under this section is a high risk resident under

3 AAC 31.500 – 3 AAC 31.549:

human immunodeficiency virus or acquired immune deficiency syndrome

- (1) (HIV/AIDS);
- (2) Septicemia Sepsis, Systemic Inflammatory Response Syndrome/Shock;
- (3) Metastatic Cancer;

(all lowercase)

all
lower-
case

Leukemia;

(4) Lung, Brain, and Other Severe Cancers, including Pediatric Acute Lymphoid

lowercase

lowercase

(5) Non-Hodgkin's Lymphomas and Other Cancers and Tumors;

(6) Mucopolysaccharidosis;

(7) Lipidoses and Glycogenosis;

(8) Amyloidosis, Porphyrin, and Other Metabolic Disorders;

(9) End-Stage Liver Disease;

(10) Chronic Hepatitis;

(11) Acute Liver Failure Disease, Including Neonatal Hepatitis;

(12) Intestinal Obstruction;

all
lowercase

(13) Chronic Pancreatitis;

(14) Inflammatory Bowel Disease;

(15) Rheumatoid Arthritis and Specified Autoimmune Disorders;

(16) Hemophilia;

(17) Acquired Hemolytic Anemia, Including Hemolytic Disease of Newborn;

(18) Sickle Cell Anemia (Hb-SS);

(19) Thalassemia Major;

(20) Coagulation Defects and Other Specified Hematological Disorders;

(21) Anorexia/Bulimia Nervosa;

(22) Paraplegia;

(23) Amyotrophic Lateral Sclerosis and Other Anterior Horn Cell Disease;

(24) Quadriplegic Cerebral Palsy;

- (25) Cerebral Palsy, Except Quadriplegic;
 - (26) Myasthenia Gravis/Myoneural Disorders and Guillain-Barre Syndrome/inflammatory and Toxic Neuropathy;
 - (27) Multiple Sclerosis;
 - (28) Parkinson's, Huntington's and Spinocerebellar Disease, and Other Neurodegenerative Disorders;
 - (29) Cystic Fibrosis;
 - (30) End Stage Renal Disease;
 - (31) Premature Newborns, Including Birthweight 2000 – 2499 grams;
 - (32) Stem Cell, Including Bone Marrow, Transplant Status/Complications; and
 - (33) Amputation Status, Lower Limb/Amputation
- Complications. (Eff. 12/22/2016, Register 220)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.400

3 AAC 31.549 is repealed and readopted to read:

3 AAC 31.549. Definitions. In 3 AAC 31.500 – 3 AAC 31.549,

(1) "association" means the Comprehensive Health Insurance Association established under AS 21.55.010 – 21.55.060;

(2) "Comprehensive Health Insurance Association" means the nonprofit incorporated legal entity established under AS 21.55.010 – 21.55.060;

(3) "covered condition" means a high risk resident's health condition, injury, illness or disease of a high risk resident that is listed under 3 AAC 31.540;

(4) "diagnosis code" means a universal code that ~~is used by~~ a health care provider ^{uses} to identify a person's diagnosis;

(5) "director" means the director of the division of insurance;

(6) "fund" means the segregated fund within the association ^{established} to hold all receipts and make all disbursements related to the program;

(7) "grandfathered health care coverage" means coverage provided by an individual health care insurance policy purchased before March 23, 2010 ⁷;

(8) "health care exchange" has the meaning given in AS 21.51.500;

(9) "health care insurance plan" has the meaning given in AS 21.42.599;

(10) "health care insurer" has the meaning given in AS 21.54.500;

(11) "health care provider" has the meaning given in AS 21.07.250;

(12) "high risk resident" means a resident of this state who has been diagnosed with one or more of the covered conditions under 3 AAC 31.540;

(13) "individual market" has the meaning given in AS 21.51.500;

(14) "program" means the reinsurance program authorized under AS 21.55.400 and established under ~~these regulations;~~ ^{3 AAC 31.500 - 3 AAC 31.549;}

(15) "transitional health care coverage" means coverage provided by an individual health care insurance policy purchased after March 22, 2010 and before January 1, 2014. (Eff. 2/2/2013, Register 205; am^y 12/22/2016, Register 220)

Authority: AS 21.06.090 AS 21.55.220 AS 21.55.430
[AS 21.42.345] AS 21.55.400

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: November 22, 2016

File No.: JU2016200831

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Division of Insurance regulations re:
the Comprehensive Health Insurance
Association (CHIA) and the
reinsurance program under AS 21.55
and AS 21.96.120, as adopted and
amended under ch. 5, 4SSLA 2016
(3 AAC 31.500 - 3 AAC 31.549)

We have reviewed the attached regulations from the Division of Insurance against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated November 21, 2016 from the Regulations Attorney. Implementing AS 21.55 and AS 21.96.120, as adopted and amended under ch. 5, 4SSLA 2016, the regulations establish a reinsurance program for provision of health insurance coverage through the Comprehensive Health Insurance Association (CHIA) for residents of this state who are high risk.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The September 21, 2016 public notice mistakenly stated that the proposed regulations changes would require increased appropriations. Actually, increased appropriations are not expected. The September 26, 2016 supplemental public notice corrects the fiscal information, stating that this action is not expected to require an increased appropriation. The November 9, 2016 adoption order also states that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200831

November 22, 2016
Page 2

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

Lori Wing-Heier, Director
Division of Insurance

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

Chip Wagoner, Regulations Specialist
Division of Insurance

Erin K. Egan, Assistant Attorney General
Commercial and Fair Business Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: November 21, 2016

FILE NO.: JU2016200831

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP/SM*
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority regarding regulations review on Division of Insurance regulations re: the Comprehensive Health Insurance Association (CHIA) and the reinsurance program under AS 21.55 and AS 21.96.120, as adopted and amended under ch. 5, 4SSLA 2016 (3 AAC 31.500 - 3 AAC 31.549)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Assistant Attorney General
Legislation/Regulations Section—Juneau

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION

I, Chip Wagoner, Regulations Specialist II of the Division of Insurance, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 3 AAC 31.500 – 3 AAC 31.549 dealing with a reinsurance program to reinsure high risk residents of this state has been given by being

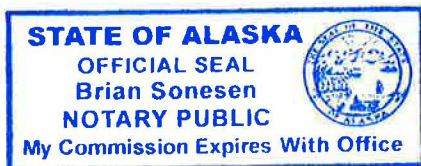
- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulations;
- (5) electronically transmitted to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chairs of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

Date: 10/20/16

Chip Wagoner
Chip Wagoner, Regulations Specialist II

Subscribed and sworn to before me at Juneau, Alaska on October 20th



Brian Sonesen
Notary Public in and for Alaska
My commission expires office

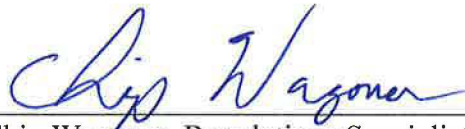
STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Chip Wagoner, Regulations Specialist II for the Division of Insurance being duly sworn, state the following:

In compliance with AS 44.62.215, the division of insurance has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the division of insurance regulation on a reinsurance program to reinsure high risk residents of this state.

Date: November 9, 2016



Chip Wagoner, Regulations Specialist II

Subscribed and sworn to before me this 9th day of November, 2016





Notary Public in and for the
State of Alaska

My commission expires: office

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF ORAL HEARING

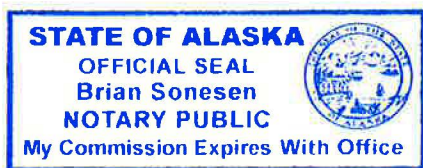
I, Anna Latham, Deputy Director for the Division of Insurance being duly sworn, state the following:

On October 21, 2016, at 10:30 a.m., in Conference Room B on the ninth floor of the State Office Building located at 333 Willoughby Ave., Juneau, Alaska, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 3 AAC 31.500 – 3 AAC 31.549 dealing with a reinsurance program to reinsure high risk residents of this state.

Date: 21 Oct 2016

Anna Latham
Anna Latham, Deputy Director

Subscribed and sworn to before me this 21st day of October, 2016



Brian Sonesen
Notary Public in and for the
State of Alaska
My commission expires: office

SUPPLEMENTAL NOTICE clarifying the NOTICE OF PROPOSED CHANGES TO
ESTABLISH A REINSURANCE PROGRAM TO REINSURE HIGH RISK RESIDENTS OF
THIS STATE
IN THE REGULATIONS OF THE DIVISION OF INSURANCE

BRIEF DESCRIPTION

The Alaska Division of Insurance proposes to change regulations to establish the Alaska Reinsurance Program to reinsure high risk residents of this state. The regulations specify the covered conditions eligible for payment through the reinsurance program and provide for the Alaska Comprehensive Health Insurance Association to implement and administer the program under the proposed regulations and a plan of operation.

The Alaska Division of Insurance proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code dealing with a reinsurance program to reinsure high risk residents of this state.

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You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Division of Insurance; Attention: Sarah Bailey; P.O. Box 110805; Juneau, AK 99811-0805; by e-mail to sarah.bailey@alaska.gov; or by fax to (907) 465-3422. Comments may also be submitted through the Alaska Online Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices>. All comments must be received **no later than 5:00 p.m., October 21, 2016**.

Oral or written comments also may be submitted at a hearing to be held on **October 21, 2016** in Conference Room B on the ninth floor of the State Office Building, located at 333 Willoughby Ave., Juneau, Alaska. The hearing will be held from **10:30 a.m. to 11:30 a.m.** and might be extended to accommodate those present before **11:30 a.m.** who did not have an opportunity to comment. If you are unable to attend the meeting in person and would like to participate by teleconference, please call 1-800-315-6338 and enter the access code 42070 followed by #.

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Statutory Authority: AS 21.06.090; AS 21.55.040; AS 21.55.400

Statutes Being Implemented, Interpreted, or Made Specific: AS 21.07.250; AS 21.42.599; AS 21.51.500; AS 21.54.500; 21.55.220.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: September 22, 2016.



Lori Wing-Heier
Director of Insurance

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SOA-DCCED
DIVISION OF INSURANCE
JUNEAU OFFICE

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

September 26, 2016

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed Emma Dunlap

Subscribed and sworn to before me
this 26th day of September, 2016

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

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DATE: September 22, 2016.

Lori Wing-Heier
Director of Insurance

Published: September 26, 2016

NOTICE OF PROPOSED CHANGES TO ESTABLISH A REINSURANCE PROGRAM TO
REINSURE HIGH RISK RESIDENTS OF THIS STATE
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BRIEF DESCRIPTION

The Alaska Division of Insurance proposes to change regulations to establish the Alaska Reinsurance Program to reinsure high risk residents of this state. The regulations specify the covered conditions eligible for payment through the reinsurance program and provide for the Alaska Comprehensive Health Insurance Association to implement and administer the program under the proposed regulations and a plan of operation.

The Alaska Division of Insurance proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code dealing with a reinsurance program to reinsure high risk residents of this state, including the following:

3 AAC 31 is proposed to be amended as follows:

3 AAC 31.500 is repealed and readopted to add a purpose statement and specify applicability requirements for participation in the program. The purpose of the regulations is to establish a high risk reinsurance program to stabilize Alaska's health insurance premiums, encourage participation in the individual health insurance market, and support a state application to the United States Secretary of Health and Human Services for waiver of certain requirements of the Patient Protection and Affordable Care Act.

3 AAC 31.505 adds a new section that establishes the Alaska Reinsurance Program within the Comprehensive Health Insurance Association (association) for high risk residents with specific conditions listed in 3 AAC 31.540. Claims of high risk residents with a listed condition are eligible for payment from the reinsurance program subject to the availability of funds from legislative appropriation or other sources. The association shall administer the reinsurance program under a contract with the director and will be effective January 1, 2017.

3 AAC 31.510 is amended to require the association to establish a plan of operation for the Alaska Reinsurance Program and a process to reimburse participating health insurers for paid claims and details requirements for the association to accept a ceded risk.

3 AAC 31.515 adds a new section providing the requirements a health care insurer must meet to be eligible for reinsurance payments for reimbursement for claims of a high risk resident with a covered condition that have been paid by the health care insurer.

3 AAC 31.520 is repealed and readopted. This section provides health care insurer duties and rules for participation in the Alaska Reinsurance Program.

3 AAC 31.525 adds a new section providing requirements and procedures for a health care insurer's handling of premiums and other financial matters.

3 AAC 31.530 is repealed and readopted. This section provides procedures for accounting, reporting, and auditing.

3 AAC 31.535 adds a new section providing procedures for the association to conduct an annual true-up process 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 the Patient Protection and Affordable Care Act.

3 AAC 31.540 adds a new section listing covered health conditions of a high risk resident that are eligible for reimbursement through the reinsurance program.

3 AAC 31.549 repeals and readopts the definitions applicable under 3 AAC 31.500-31.549.

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Statutes Being Implemented, Interpreted, or Made Specific: AS 21.07.250; AS 21.42.599; AS 21.51.500; AS 21.54.500; 21.55.220.

Fiscal Information: The proposed regulation changes will require increased appropriations. For FY 17, the legislature appropriated \$55 million dollars for the reinsurance program. For succeeding fiscal years, the reinsurance payments under the proposed reinsurance program under the proposed regulations will be scaled upward or downward depending on the availability of funds appropriated to the program by the legislature. The estimate for FY 18 is dependent on the legislature's continuing support for the program at the same level as funded for FY 17.

AS 21.55.430, which creates the Alaska comprehensive health insurance fund, provides that the legislature may use the annual estimated balance in the fund to make appropriations to the Department of Commerce, Community, and Economic Development to fund the proposed reinsurance program under the proposed regulations under AS 21.55. Under section 6, ch 5 4SSLA 16, AS 21.55.430 is repealed June 30, 2018. While the program is not being repealed by the legislature, the division, at this time, is viewing the repeal of the fund as legislative intent to not fund the program beyond FY 18. Therefore, the estimates for FY 19 and FY 20 are zero.

DATE: September 16, 2016.



Lori Wing-Heier
Director of Insurance

ESTABLISH A REINSURANCE PROGRAM TO REINSURE HIGH RISK RESIDENTS OF THIS STATE

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Division of Insurance, Department of Commerce, Community, and Economic Development
2. General subject of regulation: Establish the Alaska Reinsurance Program to reinsure high risk residents of this state
3. Citation of regulation (may be grouped): 3 AAC 31.500 – 3 AAC 31.549
4. Department of Law file number, if any: _____
5. Reason for the proposed action:
 Compliance with federal law or action (identify): _____
 Compliance with new or changed state statute
 Compliance with Federal or state court decision (identify) _____
 Development of program standards
 Other (identify): _____
6. Appropriation/Allocation: Insurance Operations/Insurance Operations
7. Estimated annual costs in the aggregate to comply with the proposed action to:
A private person: Health care insurers participating in the Alaska Reinsurance Program would be required to pay to the Alaska Comprehensive Health Insurance Association, the premiums and pharmacy rebates they received relating to high risk persons covered under the program, however, except for deductions for the association's administrative costs, the premium and pharmacy rebates would be utilized for reinsurance payments to the participating health care insurers.
Another state agency: None are anticipated, however, the Comprehensive Health Insurance Association, a nonprofit incorporated legal entity established under AS 21.55.010 – 21.55.060, is estimated to have \$200,000 - \$250,000 in expenses to implement and administer the proposed reinsurance program under the proposed regulations.
A municipality: None are anticipated.
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>16</u>	Subsequent Years
Operating Cost	\$ <u>30,000</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>

1004 General fund	\$ <u>30,000</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:

Name: Sarah Bailey
 Title: Insurance Specialist III
 Address: Division of Insurance
P.O. Box 110805, Juneau, AK 99811-0805
 Telephone: (907) 465-4608
 E-mail address sarah.bailey@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change
 Other (identify) New state legislation (Chapter 5 4SSLA 16)

11. Date: Sept 21, 2016 Prepared by: Anna Latham
 [signature]

Name (printed): Anna Latham
 Title (printed): Deputy Director
 Telephone: (907) 465-2518

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SEP 29 2016

SOA-DCCED
DIVISION OF INSURANCE
JUNEAU OFFICE

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

September 21, 2016

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed Emma Dunlap

Subscribed and sworn to before me
this 22nd day of September, 2016
Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

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