

# Kenai Peninsula Borough Assembly

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## MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Members, Kenai Peninsula Borough Assembly

**FROM:** Tyson Cox, Assembly Vice President

**DATE:** February 21, 2023

**SUBJECT:** Resolution 2023-022, Supporting Amendments to Title 3 of the Alaska  
Administrative Code, Section 26.110 to Abolish the 80th Percentile Rule (Cox)

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Recently State Senator Jesse Bjorkman reached out with information about a proposed regulation change on the basis of payment for health care service claims in the regulations of the Alaska Division of Insurance, known as the “80th Percentile Rule”.

Senator Bjorkman explained how this 80th Percentile Rule was adopted by the Alaska Division of Insurance in 2004 to protect patients from a practice known as “balanced billing”, and that the Federal No Surprises Act, enacted in 2020, prohibits balanced billing; making the 80th Percentile Rule unnecessary.

The 80th Percentile Rule was designed to set a minimum price for how much health insurance companies must pay when Alaskans with private insurance plans see doctors or other providers outside their insurers’ networks. It now has become the basis for negotiation when health care providers discuss in-network rates and rates with self-insured plans.

According to a May 2018 Study published by the University of Alaska Anchorage Institute of Social and Economic Research (ISER) the average annual increase in personal health care spending by Alaskans from 2005 through 2014 was \$376 million, and the 80th Percentile Rule accounted for 8% to nearly 25% of that annual growth. When compared to states with similar pre-2004 spending growth, about 22.5% of the annual health care spending increase can be attributed to the rule.

It is believed that the 80th Percentile Rule will continue to drive up health care expenses for Alaskans by significantly increasing the costs incurred by state and local government and by the direct expense to private employers and their employees.

My apologies for bringing this as a laydown resolution, but time is of the essence. All comments must be in by March 6, 2023 and our next meeting is not until March 14, 2023.

Your consideration is appreciated.