

Retiree Health Plan Advisory Board Special Meeting Agenda

Date: Friday March 25, 2022
Time: 9:00am – 12:00pm [OnlinePublicNotices](#)
Location: Video-Teleconference: [Join meeting](#)
Anchorage Atwood Building, 19th floor conference room
Teleconference: (650) 479-3207 Access Code: 2459 086 9189
Password: cTymPjRB547 (28967572 from phones)
Board Members: Judy Salo (chair), Lorne Bretz, Dallas Hargrave, Paula Harrison, Cammy Taylor,
and Nan Thompson

9:00 am Call to Order – Judy Salo, Board Chair

- Roll Call and Introductions
- Approval of Agenda
- Ethics Disclosure and Public Comment Script

9:15 am Public Comment

9:30 am Mediation Settlement Agreement

1. Memorandum – Recommendation to the Alaska Retiree Health Plan Advisory Board
2. Bylaws
3. RHPAB Subcommittees
 - modernization subcommittee
 - regulations subcommittee
4. Plan Amendment #2022-01
 - Public comment period
5. Benefit Clarification

12:00 pm Adjourn

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Memorandum

To: Alaska Retiree Health Plan Advisory Board

Thru: Paula Vrana, Commissioner, Department of Administration

From: Emily Ricci, Chief Health Administrator, Division of Retirement and Benefits

Date: March 11, 2022

Subject: RPEA Settlement: Recommendation to the Alaska Retiree Health Plan Advisory Board

Since 2016, the State of Alaska has been engaged in litigation with the Retired Public Employees of Alaska, Inc. (RPEA) regarding changes made in 2014 to the AlaskaCare Defined Benefit Retiree Health Plan (Medical Plan) and to the AlaskaCare Retiree Dental, Vision, and Audio Plan (DVA Plan). The parties mediated the outstanding issues related to the litigation on February 11, 2022, and a final settlement agreement was signed on February 28, 2022.

In accordance with the settlement agreement, the Division of Retirement and Benefits (Division) makes the following recommendations to the Retiree Health Plan Advisory Board (RHPAB or Board):

1. Regulations Subcommittee

- a. The Division recommends that in accordance with Article VI, Section 1 of the RHPAB Bylaws¹ the Board create a Regulations Subcommittee to review and discuss current and future regulations pertaining to the AlaskaCare Retiree Health Plans. This subcommittee would be the venue to review and develop advisory recommendations to be considered by the full Board regarding regulations describing the process for making changes to the Medical Plan and to the DVA Plan.
- b. The Division recommends that as allowed by Article VI, Section 3, the Board consider creating one additional position on the Regulations Subcommittee to be filled by an active member of RPEA in good standing, who will be selected by the Board from a list of three proposed candidates submitted to the Division by RPEA.

¹ Retiree Health Plan Advisory Board By-Laws – Updated May 8, 2018. See attached.

2. Modernization Subcommittee

- a. The Division recommends that as allowed by Article VI, Section 3, the Board consider creating one additional position on the Modernization Subcommittee to be filled by an active member of RPEA in good standing, who will be selected by the Board from a list of three proposed candidates submitted to the Division by RPEA.

3. Amend Bylaws

- a. The Division recommends that the Board amend the current RHPAB Bylaws through a formal vote at the regularly scheduled May 5, 2022 meeting to memorialize the changes recommended in items 1 and 2 above. This will meet the written notice requirements of Article IX, Section 1 in the current Bylaws.

4. Subcommittee Meetings

- a. The Division requests that the Board convene a meeting of the Regulations Subcommittee (if established by the Board) the week of April 11, 2022, to solicit input on a regulatory process for making changes to the Medical Plan and to the DVA Plan.
- b. The Division requests that the Board convene a meeting of the Modernization Subcommittee the week of April 11, 2022, to review the Medical Plan's provisions regarding coverage for experimental and investigational services and supplies, the precertification process, and travel penalty.

Attachment

Retiree Health Plan Advisory Board By-Laws – Updated May 8, 2018

Retiree Health Plan Advisory Board By-Laws - Updated May 8, 2018

Article I

Name

The name of the organization is the Retiree Health Plan Advisory Board, hereinafter referred to as “the Board” or “RHPAB.”

Article II

Purpose and Responsibilities

Section 1. Pursuant to Administrative Order No. 288 the Board was created to facilitate engagement and coordination between the State’s retirement systems’ members, the Alaska Retirement Management Board (ARMB), and the Commissioner of the Department of administration of the retiree health plan.

Section 2. The creation of the RHPAB will provide an efficient and transparent way to facilitate regular engagement, communication, and cooperation between the Office of the Governor, the ARB, and the Commissioner, and retirement system members regarding the administration and management of the State’s retirement systems.

Section 3. The board is advisory only and may not engage in activity in administration of the health plan.

Section 4. Duties and Responsibilities

The Board shall review available non-confidential information, hold public meetings, and provide periodic reports to the Commissioner. The periodic reports may include recommendations to the Commissioner related to the health care plans of the State’s retirement systems, including optional life insurance, long-term care insurance, and optional dental-visual-audio programs.

The recommendation must consider:

1. The cost of the services or changes to relative to the long-term and short-term fiscal viability of the plans, including policies to retain prudent reserves in the plans;
2. The affordability of the health care plans from the perspective of plans sponsors, participating employers and plan beneficiaries, including the effect of premiums assets to benefits; and
3. The clarity of the plan to beneficiaries, and the department’s ability to offer consistent, transparent direction and oversight to third-party plan administrators.

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The Board may also submit to the Commissioner, reports to provide input on the performance of service providers including third-party administrators, insurance providers, and annuity providers to the State's retiree health care plans.

Article III **Membership and Terms of Office**

Section 1. Composition

The RHPAB consists of seven voting members who are appointed by the Governor.

1. One member who is an ARMB trustee by virtue of AS 37.10.210(b)(2)(C) or (D).
2. One member who is a human resources official or financial officer employed by a political subdivision participating in the State's retirement systems.
3. One member who is a Public Employees' Retirement System (PERS) retired member, selected from a list of three individuals nominated by retiree groups that represent PERS members.
4. One member who is a Teachers' Retirement System (TRS) retired teacher or member, selected from a list of three individuals nominated by retiree groups that represent TRS members.
5. One member of the State's retirement system who is a retired member under PERS Tiers I, II, or III, TRS Tiers I or II, or the Judicial Retirement System (JRS).
6. One member who is an active or retired member of PERS or an active or retired teacher or member of TRS who is vested in the PERS Tiers I, II, or II or TRS Tiers I or II retiree plans. If an active member, the person should not be more than five years from eligibility for retirement.
7. One public member who is not a member or beneficiary of the PERS system, the TRS system, or the JRS; this person must have at least five years' relevant experience and expertise in health care administration, finance, or governmental budget issues, or other background helpful to the Board's mission.

The Commissioner or the Commissioner's designee shall serve as a non-voting, ex-officio member of the Board.

Section 2. Term of Office

1. Each member of the Board shall serve staggered three year-terms consistent with AS 39.05.055(5).

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2. The Governor may choose from the nominee list, request further solicitation, or make an appointment of the Governor's choosing.
3. Members serve at the pleasure of the Governor.
4. If a vacancy occurs on the board, the Governor may appoint an individual qualified for that seat to serve the balance of the unexpired term.

Section 3. Members of the board receive no compensation for service on the Board but are entitled to per diem and travel expenses in the same manner permitted for members of State boards and commissions.

Article IV **Officers**

Section 1. The Board shall annually select from its members a chair and a vice-chair.

Article V **Meetings**

Section 1. The meetings of the Board shall be conducted in accordance with the AS 44.62.310-44.62.319 (Open Meetings Act).

Section 2. The Board shall meet at a date and time set by the Commissioner or the Commissioner's Designee, expected to be quarterly. Board members are entitled to per diem and travel expenses in the same manner permitted members of state boards and commissions for at least one in person meeting per year.

Section 3. Four members-or a majority of the Board if a vacancy exists -constitute a quorum for doing business.

Section 4. Proxy voting is not permitted.

Section 5. Members of the public present at the meeting of the Board shall be offered a reasonable opportunity to be heard in accordance with Board policy.

Section 6: The Board shall keep minutes of all of its board meetings and board committee meetings and a record of all proceedings of the Board. All minutes shall be filed in the office of the Commissioner of Administration and made publicly available.

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Article VI **Committees**

Section 1. The Chair may establish committees as the need arises and shall assign such duties and responsibilities to the committees.

Section 2. Committees of the Board shall, when specifically charged to do so by the Board, conduct studies, make recommendations to the Board, and act in an advisory capacity, but shall not take action on behalf of the Board.

Section 3. Unless otherwise determined by the Board, committees shall consist of no fewer than two board members and shall serve until the committee is discharged by the Chair of the Board.

Section 4. A committee shall be convened by the committee Chair or designee who shall report for the committee. The committee Chair shall ensure that minutes will be kept and submitted for Board review.

Section 5: Any member of the Board may attend a committee meeting.

Article VII **Parliamentary Authority**

Section 1. Meetings shall be conducted under Robert's Rules of Order, using the current edition, and such amendments of these rules as may be adopted by the Board.

Article VIII **Ethics**

Section 1. Members of the Board shall at all times abide by and conform to the Alaska Executive Branch Ethics Act (AS 35.52).

Article IX **Amendments**

Section 1. The Bylaws, as adopted, may be amended, altered, or repealed at any duly convened meeting of the Board provided that written notice of the proposed

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change(s) has been sent to each Board member at least (30) days before the meeting. Each time the Bylaws are amended the new version shall include the dates of amendment.

| | |
|--|--|
| AlaskaCare Defined Benefit Retiree Health Plan Amendment | Number: 2022-01 |
| | Effective Date: June 01, 2022 |
| <u>Amended and Additional Provisions:</u> Amends: 1) Contact Information 2) Section 3.3.1 Medical Necessity 3) Section 12.14.13 Third Level – Division of Retirement and Benefits Appeal 4) Section 14.4 Applicable Law and Venue Adds: 1) Definitions | Review Date: March 18, 2022 |
| | Distribution: Commissioner Division Director Chief Health Administrator Health Operations Manager Deputy Health Official Vendor Manager Appeals Supervisor Eligibility Manager Communications Supervisor Legal Counsel TPA RPEA File |

The State of Alaska provides, by means of self-insurance, health benefits covering individuals entitled to coverage under AS 14.25, AS 22.25, AS 39.35 or former AS 39.37, and their dependents. Such benefits are set forth in the Retiree Insurance Information Booklet (the “Plan”). Under authority of AS 39.30.090-098, the Commissioner of Administration hereby amends the Plan as follows:

Section 1 Amended Provisions

- 1) Amends the Contact Information section to add a web link to the Aetna Clinical Policy Bulletins.

Aetna Clinical Policy Bulletins www.aetna.com/health-care-professionals/clinical-policy-bulletins.html

- 2) Amends Section 3.3.1 Medically Necessary Services and Supplies

3.3.1 Medically Necessary Services and Supplies

The medical plan pays only for medically necessary services and supplies, as defined in Section 3.3, “Covered Medical Expenses.” The medical plan will utilize Aetna’s the Claims Administrator’s current Medical and Pharmacy Clinical Policy Bulletins for purposes of determining medical necessity for services covered under the medical plan; provided, however, that the Plan Administrator retains the authority to determine, in their discretion, whether a service or supply is medically necessary. In exercising such discretion, the Plan Administrator shall consider: (a) information provided on the affected person’s health status; (b) reports in peer-reviewed medical literature; (c) reports and guidelines

published by nationally recognized health care organizations that include supporting scientific data; (d) generally recognized professional standards of safety and effectiveness in the United States for diagnosis, care or treatment; (e) the opinion of health professionals in the generally recognized health specialty involved; and (f) any other relevant information brought to the Plan Administrator's attention. See section 4.6, *Medical Necessity* for services covered under the prescription drug benefits. See page ii for information on accessing the Claims Administrator's Clinical Policy Bulletins. You may access Aetna's Clinical Policy Bulletins at: www.aetna.com/healthcare-professionals/policiesguidelines/clinical_policy_bulletins.html

When Aetna's the Claims Administrator's Clinical Policy Bulletins do not address the specific service or supply under review, a determination of medical necessity will be made when Aetna the Claims Administrator determines that the medical services and supplies or prescription drugs would be given to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, an injury, a disease, or its symptoms by a physician or other health care provider, exercising prudent clinical judgment.

3) Amends Section 12.14.13 Third Level – Division of Retirement and Benefits Appeal

12.14.13 Third Level – Division of Retirement and Benefits Appeal

If the claim is denied on external review or, if not eligible for external review, on the second level of appeal, you may send a written appeal to the Division of Retirement and Benefits. If you submit an appeal to the Division, your appeal must be postmarked or received within 60 calendar days of the date the final external review or second level claims administrator decision letter was issued. If you do not file a Plan Administrator appeal timely, to the extent available under this section, the decision on external review or, if not eligible for external review, the second level of appeal will be the final decision, and will be final, conclusive and binding on all persons.

4) Amends Section 14.4 Applicable Law and Venue

This plan is issued and delivered in the State of Alaska and is governed by the laws of the State of Alaska. Any and all suits or legal proceedings of any kind that are brought against the State must be filed in the First Judicial District, Juneau, one of the Judicial Districts in the State of Alaska.

Section 2 Added Provisions

1) Adds Definitions above section 1.

Definitions

"Plan Administrator" shall mean the Commissioner of the Department of Administration, State of Alaska, or their designee.

"Aetna" shall mean Aetna Life Insurance Company, an affiliate of Aetna, or a third-party vendor under contract with Aetna. Aetna is the third-party administrator and Claims Administrator of the medical plan.

"Claims Administrator" shall mean a person, firm, or company which has agreed to provide technical or administrative services and advice in connection with the operation of all or a part of a benefit provided for under the plan, and perform such other functions, including processing

DRAFT State of Alaska, Department of Administration
Division of Retirement and Benefits

and payment of claims, as may be delegated to it under such contract. The claims administrator may review claims appeals and, if applicable, coordinate external reviews, as provided by the plan.

This Amendment is effective June 01, 2022.

Adopted this _____ day of _____, 2022.

By: _____

Paula Vrana, Commissioner
Department of Administration

DRAFT

Proposed Amendment to the AlaskaCare Defined Benefit Retiree Health Plan—Please Share Your Thoughts!



The Department of Administration, Division of Retirement and Benefits, is proposing an amendment to the AlaskaCare Defined Benefit Retiree Health Plan, effective June 1, 2022.

Amendment Summary:

1. Amends the Contact Information section to include information related to accessing Clinical Policy Bulletins
2. Amends Section 3.3.1 *Medical Necessity*
3. Amends Section 12.14.13 *Third Level – Division of Retirement and Benefits Appeal*
4. Amends Section 14.4 *Applicable Law and Venue*
5. Adds new Definitions section

The proposed amendment is available [here](#) for review. You may comment on the proposed Plan Amendment by submitting written comments:

- **By Mail**
 - State of Alaska Department of Administration

Email Send Date: 03/18/2022

- Division of Retirement and Benefits
- P.O. Box 110203, Juneau AK 99811-0203
- **By Email**
 - doa.drb.alaskacare.retiree.plan@alaska.gov.
- **By OPN**
 - Enter your comments on the **Online Public Notices page**. [\(link needed\)](#)

All comments must be received no later than **4:30 p.m. on May 20, 2022**.

A public teleconference about the proposed amendment will be held on Monday, April 25 at 2 p.m. Alaska time.

- **Teleconference #** (855) 244-868
- **Meeting #** 2453 805 2753
- **ID #** 68464377

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact the Division of Retirement and Benefits at doa.drb.alaskacare.retiree.plan@alaska.gov or (907) 465-4460 no later than May 2, 2022, to ensure that any necessary accommodation can be provided.

Written comments received are public records and are subject to public inspection.

Have Questions? Learn More at the Upcoming Retiree Townhall Event!

Please join us for a Retiree Townhall Event on Thursday, April 21, 2022, at 10 a.m. AKDT.

Register in advance [here](#) to make sure your phone number is on the call list. If you don't want to register or participate over the phone, you can listen online. The audio of the call will be streamed live on the [registration page](#) and on the Division's [Facebook page](#) once the event begins.

For more information about the AlaskaCare plans, visit AlaskaCare.gov.

If you have questions about the AlaskaCare Retiree DB Health Plan or your benefits, please contact the Division at (907) 465-4460.

Email Send Date: 03/18/2022

Alaska Department of Administration

[Division of Retirement and Benefits](#)

6th Fl. State Office Building, PO Box 110203, Juneau, AK 99811-0203

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Questions?

[Contact Us](#)

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DRAFT AlaskaCare Benefit Clarification 2022-01

| | | | |
|-----------------------|--|-----------------------|---------------|
| Benefit Title | Maintenance Care for Musculoskeletal Disorders | Group Number | 866219 |
| Effective Date | 01 June 2022 | Date Submitted | 11 March 2022 |

Applicable Benefit Plan (check all that apply):

- Active
 Retiree Defined Benefit
 Retiree Defined Cont.
 Long-Term Care
 Medical
 Dental
 Vision
 Audio
 Pharmacy
 Other

Benefit Description:

The AlaskaCare Retiree Defined Benefit Health Plan (Plan) currently covers medically necessary outpatient rehabilitative care designed to restore and improve bodily functions lost due to injury or illness. This care is considered medically necessary only if significant improvement in body function is occurring and is expected to continue.

The Plan does not contain an annual service limit for outpatient rehabilitative care. After the 20th claim for services from the same provider for a specific episode of care, the Claims Administrator will request chart notes. Starting at the 26th visit, the Claims Administrator will begin to pend payment for claims that do not have accompanying chart notes that demonstrate the care is eligible for coverage.

To continue Plan coverage, the provider must submit clinical records that sufficiently document the patient’s response to treatment. If the records are not provided to the Claims Administrator within 45 days or fail to demonstrate significant improvement in accordance with the established clinical criteria, the services will be denied.

The 25-visit counter is reset annually at the start of the new plan year.

AlaskaCare Retiree Insurance Information Booklet (January 2022) Reference:

3.3.12 Rehabilitative Care

The Medical Plan covers **outpatient** rehabilitative care designed to restore and improve bodily functions lost due to injury or illness. This care is considered medically necessary only if significant improvement in body function is occurring and is expected to continue. Care (excluding speech therapy) aimed at slowing deterioration of body functions caused by neurological disease is also covered.

Rehabilitative care includes:

- a) Physical therapy and occupational therapy.
- b) Speech therapy if existing speech function (the ability to express thoughts, speak words, and form sentences) has been lost and the speech therapy is expected to restore the level of speech the individual



had attained before the onset of the disease or injury.

- c) Rehabilitative counseling or other help needed to return the patient to activities of daily living but excluding maintenance care or educational, vocational, or social adjustment services.

Rehabilitative care must be part of a formal written program of services consistent with your condition. Your physician or therapist must submit a statement to the Claims Administrator outlining the goals of therapy, type of program, and frequency and duration of therapy.

Benefit Clarification:

When the medical necessity review is performed after the 25th visit for therapy visits for musculoskeletal disorders delivered by the same provider for a specific episode of care, if the treatment is determined to be maintenance care, the beneficiary will receive coverage for up to 10 additional visits per year for that specific episode of care.

Plan Administrator Approval:

Signature

Title Commissioner

Date

Department of Administration

Comments:

This benefit clarification applies to the AlaskaCare Defined Benefit Retiree Health Plan effective June 1, 2022.

A benefit clarification is one mechanism by which the Plan Administrator provides guidance to a Third-Party Administrator (TPA) as to the proper adjudication of a specific provision of the AlaskaCare Health Plan(s). A benefit clarification does not amend the AlaskaCare Health Plan(s); rather, it provides clarification as to the Plan Administrator's intent with regard to a specific provision of the plan document. No covered person will have any vested interest in a benefit clarification. The Commissioner of Administration, as administrator of the AlaskaCare Health Plans, reserves the right, in their sole discretion, to alter, amend, delete, cancel or otherwise modify this benefit clarification at any time and from time to time, and to any extent that they deem advisable.

SETTLEMENT AGREEMENT

This Settlement Agreement “(Settlement Agreement)” is made effective as of February 28, 2022 (the “Effective Date”), by and between the State of Alaska, Department of Administration, Division of Retirement and Benefits (the “State”) and The Retired Public Employees of Alaska, Inc. (“RPEA”). The State and RPEA are each referred to herein as a “Party,” or collectively as the “Parties.”

The Parties agree that nothing herein shall affect any protections afforded by the Alaska Constitution, Article XII, § 7, *Duncan v. Retired Public Employees of Alaska, Inc.*, 71 P.3d 882 (Alaska 2003), and/or *State, Department of Administration v. The Retired Public Employees of Alaska, Inc.*, Op. No. 7581, 2022 WL 189006 (Alaska Jan. 21, 2022).

In consideration of the mutual promises set forth below, the Parties, intending to be legally bound, agree as follows:

1. **Settlement of the Medical Benefits Case.** RPEA and the State agree to the following with respect to *The Retired Public Employees of Alaska, Inc. v. State of Alaska, Department of Administration, Division of Retirement and Benefits*, Case No. 3AN-18-06722 CI (the “Medical Benefits Case”).

a. **Plan Amendments.** The State agrees to adopt the amendments to the AlaskaCare Retiree Health Plan Retiree Insurance Information Booklet (the “Plan”) set forth in the attached **Exhibit “A”** (the “Plan Amendments”). The Parties agree to the following terms for adoption of the Plan Amendments:

i. **Public Comment.** The Plan Amendments will be made available for public comment through the Division of Retirement and Benefits’ (“DRB”) website. In this

instance, the comment period will be sixty (60) days. Comments may be submitted in writing, via e-mail to doa.drb.alaskacare.retiree.plan@alaska.gov, or through the Alaska Online Public Notice System.

ii. **RPEA Support for Plan Amendments.** RPEA will publicly support DRB’s adoption of the Plan Amendments by (i) posting a statement of support on its website; (ii) sending a statement of support to its members via e-mail or written newsletter; and/or (iii) publicly commenting in support of the Plan Amendments.

b. **Maintenance Care for Musculoskeletal Disorders.** Within 90 days of the Effective Date, DRB will adopt a Benefit Clarification clarifying that after the twenty-fifth annual therapy visit for a specific episode of care, a medical necessity review will be performed by the Plan’s third-party administrator. If the treatment is determined to be maintenance care, the beneficiary will receive coverage for up to ten (10) additional visits per year for that specific episode of care.

c. **Retiree Health Plan Advisory Board (the “RHPAB” or the “Board”).** Within 60 days of the Effective Date, the Commissioner of the Department of Administration (the “Commissioner”), will recommend that the Governor adopt a new Administrative Order continuing operations of the RHPAB (the “Proposed AO”) pursuant to Governor Dunleavy’s Administrative Order No. 319 (the “Recommendation”). The Recommendation shall outline the efficacy of the Board and recommend: (i) removal of the “sunset provision,” which provides that the Board shall terminate on the sixth anniversary unless otherwise extended by the Governor; and (ii) that an eighth seat will be

added to the Board (the “Additional Board Seat”). If the Governor accepts the Recommendation and issues the Proposed AO, the Additional Board Seat will be filled by an active member of RPEA in good standing, who will be selected by the Governor from a list of three proposed candidates to be submitted to the Governor’s Office by RPEA.

d. **RHPAB Subcommittees.** Within 30 days of the Effective Date, DRB will seek approval of the RHPAB to amend the bylaws and (i) place one representative of RPEA on the Board’s Modernization Subcommittee; and (ii) create a Regulations Subcommittee, on which an RPEA member will hold one position. If the RHPAB approves, the subcommittee positions will be filled by an active member of RPEA in good standing, who will be selected by the RHPAB from a list of three proposed candidates to be submitted to DRB by RPEA. Within 60 days of the Effective Date, the Commissioner will request the Board’s Modernization Subcommittee review the Plan’s provisions regarding coverage for experimental and investigational services and supplies, the precertification process, and travel penalty.

e. **Regulations Relating to the Process for Making Changes to the Plan.** Within 120 days of the Effective Date, DRB shall draft a regulation describing the process for making changes to the Plan (the “Process Regulation”). The Parties agree to the following terms for the development and potential adoption of the Process Regulation:

i. **RPEA Participation.** DRB will solicit input from the RHPAB, and RPEA will have an opportunity to participate through its representative on the RHPAB or one of its Subcommittees (*see* Part 1.c-d, above). Nothing in this paragraph shall function

or be construed as a waiver of the administrator's (as that term is defined in AS 39.35.003(a)) sole authority to formulate and recommend to the commissioner of administration regulations governing the operation of the Public Employees' Retirement System under AS 39.35.004(a)(7), nor is anything in this paragraph or Settlement Agreement intended to constitute negotiated rulemaking pursuant to AS 44.62.710-.800.

ii. **Content of Process Regulations.** The Process Regulation will encapsulate DRB's current process for evaluating proposed Plan changes and will provide that in considering any proposed changes to the Plan, DRB will consider the background for such changes, their objective, details of the proposed changes, the impact of the changes on Plan beneficiaries, the actuarial impact of the changes, the financial impact of the changes on the Plan, and the operational impact of any changes. The Process Regulation will also account for the need for flexibility, so that DRB may quickly respond to advances in medicine and medical technology, pandemics, and other emergencies. The Process Regulation will also require that (1) DRB provide beneficiaries with an opportunity to review and comment on any proposed Plan changes prior to adopting any final proposal; and (2) DRB will provide notice and outreach about the proposed changes to Plan beneficiaries.

iii. **Commissioner Support for Process Regulation.** The Commissioner will support the adoption of the Process Regulation.

iv. **RPEA Support for Process Regulation.** RPEA will publicly support DRB's adoption of the Process Regulation by (i) posting a statement of support on its

website; (ii) sending a statement of support to its members via e-mail or written newsletter; and/or (iii) publicly commenting in support of the Process Regulations.

v. **Public Comment.** In addition to the notice requirements under AS 39.35.005(d), the Process Regulation will be made available for public comment through DRB's website. The comment period will be sixty (60) days. Comments may be submitted in writing, via e-mail to doa.drb.alaskacare.retiree.plan@alaska.gov, or through the Alaska Online Public Notice System. A public teleconference will be held at a time to be determined during the public comment period. Following the public comment period, DRB may revise, amend, or repeal any regulation based upon submitted comments. Nothing in this Settlement Agreement subjects any proposed regulation to the requirements of the Administrative Procedures Act. *See* AS 39.35.005(a).

f. **Appeal Regulation.** DRB will continue to review and update the appeal regulations in compliance with AS 39.35.004-.005.

g. **Benefit Clarifications.** When DRB determines there is a systemic issue that requires a clarification of Plan coverage be sent to the Claims Administrator, DRB will issue a Benefit Clarification and will publish the Benefit Clarification on its website.

h. **Dismissal of the Medical Benefits Case.** Within ten (10) business days of the issuance of the Administrative Order described in Part 1.c, above, RPEA shall dismiss its claims in the Medical Benefits Case with prejudice.

2. **Settlement of the DVA Case.** RPEA and the State agree to the following with respect to *The Retired Public Employees of Alaska, Inc. v. State of Alaska, Department*

of Administration, and Acting Commissioner Amanda Holland, in an official capacity,
Superior Court No. 3AN-16-04537 CI, Supreme Court No. S-17577 (the “DVA Case”).

a. **Continuation of the Legacy Plan.** Subject to the terms of this Part 2(a), DRB will continue to offer retirees who participate in the dental plan the option of choosing each year, during the open enrollment period, whether to enroll in the Legacy Plan or the Standard Plan. DRB will not discontinue the Legacy Plan unless premiums to participate reach \$167/month or unless the RHPAB recommends discontinuing it, and the Commissioner of the Department of Administration accepts that recommendation.

b. **Default Plan.** For newly eligible retirees who have not elected benefits, the Standard Plan will constitute the default plan during open enrollment. A retiree who participated in a dental plan during the previous year and who fails, during the open enrollment period, to make a choice between plans for the next year will be enrolled in the same plan as the retiree was enrolled in during the previous year.

c. **Open Enrollment.** Beginning in 2022, during the open enrollment period, DRB will provide beneficiaries with information regarding the differences between the Legacy Plan and the Standard Plan with respect to out-of-network reimbursements. Such information will be available through DRB’s website.

d. **Calculation of Plan Premiums.** Prior to open enrollment for plan year 2023, premiums for both the Standard Plan and Legacy Plan will be set separately and will reflect the cost of each respective plan. The new premiums will take effect on January 1, 2023.

DRB will make available to RPEA actuarial information relied upon in determining premiums for each plan in summary form.

e. **Regulations Relating to the Process for Making Changes to the DVA Plans.** DRB shall draft and support regulations describing the process for making changes to the DVA plan (the “DVA Process Regulation”). In developing the DVA Process Regulation, the Parties agree to the terms set forth in Part 1.e.i-v, above.

f. **Dismissal of the DVA Case.** Within ten (10) business days of the Effective Date of this Settlement Agreement, RPEA shall dismiss its claims in the DVA Case with prejudice.

3. **Release of Claims in the Medical Benefits Case.** Effective upon the issuance of the Administrative Order described in Part 1.c, above, RPEA releases and forever discharges the State, the Department of Administration (“DOA”), DRB, and the Commissioner (including her successors) from all claims, causes of actions, and demands for damages, costs, expenses, or attorney’s fees that it has now or may have later on account of, arising out of, or related to the Medical Benefits Case (including but not limited to claims arising out of or related to Plan Amendments 2014-1, 2016-1, and all changes subsequent to January 1, 2014 made to the Plan Booklet that were identified in the Medical Benefits Case or by RPEA during the pendency of the Medical Benefits Case), and any other federal, state, or local laws, rules, or regulations, with all associated damages, punitive damages, and penalties.

4. **Release of Claims in the DVA Case.** Effective upon the Effective Date, RPEA releases and forever discharges the State, the Department of Administration (“DOA”), DRB, and the Commissioner (including her successors) from all claims, causes of actions, and demands for damages, costs, expenses, or attorney’s fees that it has now or may have later on account of, arising out of, or related to the DVA Case, and any other federal, state, or local laws, rules, or regulations, with all associated damages, punitive damages, and penalties.

5. **No Admission of Liability.** The Parties acknowledge that nothing in this Settlement Agreement constitutes an admission of liability or responsibility by either Party. The State expressly denies it is liable to RPEA in the Medical Benefits Case and the DVA Case.

6. **Binding Agreement/No Third-Party Beneficiaries/No Assignment.** RPEA acknowledges that this Settlement Agreement is binding upon its legal representatives, successors, and assigns. However, nothing in this Settlement Agreement, express or implied, confers any rights, benefits, claims, or causes of action upon any person other than the Parties. This Settlement Agreement shall not be assignable by any Party.

7. **Covenant Not to Sue.** Effective upon the dismissal of the Medical Benefits Case, RPEA agrees it will not individually, or in concert with others, bring judicial, contractual, or administrative proceedings of any kind, make or cause to be made, acquiesce in, or assist in the bringing of any future action against the State for damages or claims arising in any way out of or related to the claims asserted in the Medical Benefits Case. Effective upon the Effective Date, RPEA agrees it will not individually, or in concert with others, bring

judicial, contractual, or administrative proceedings of any kind, make or cause to be made, acquiesce in, or assist in the bringing of any future action against the State for damages or claims arising in any way out of or related to the claims asserted in the DVA Case. RPEA agrees to indemnify, defend, and hold harmless the State from any such actions that any individual or entity might bring on its behalf.

8. **Opportunity to Review.** Each Party acknowledges that it has had sufficient time to consult with its attorneys to review and understand this Settlement Agreement, and that it has discussed this matter with its attorneys and other advisors and experts as it has deemed appropriate, has been advised of *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978), and *Young v. State*, 455 P.2d 889 (Alaska 1969), and waives the protection of those decisions.

9. **Entire Agreement.** RPEA represents and warrants that each of the terms of this Settlement Agreement has been carefully read and that its terms are fully understood and voluntarily accepted for the purpose of making a full and final compromise of any and all claims, disputed or otherwise, accrued or to accrue for and on account of any and all injuries, damages, or claims of RPEA against the State. No promise or inducement that is not expressed in this Settlement Agreement has been made by or to RPEA to secure this settlement and release. RPEA represents and warrants that the settlement that led to execution of this Settlement Agreement was not secured under duress or in haste at the instigation of the State and that RPEA is not, in agreeing to this settlement and to this release, at a bargaining disadvantage because of the nature of any injury, loss, or damage

or for any other reason, and that the undersigned has been represented by an attorney throughout the course of negotiations that led to this settlement.

10. **Ownership of Claims and Authority.** The Parties represent, warrant and affirm that the person signing on that Party's behalf is fully authorized to do so, and has full and complete authority to settle this matter as described herein. RPEA further represents and warrants that no other person or entity has or has had any interest in the claims released herein and that it has not sold, assigned, transferred, conveyed or otherwise disposed of any such claims.

11. **Interpretation.** This Settlement Agreement will be construed as a fully integrated contract governed by the laws of the State of Alaska. Any dispute arising from this Settlement Agreement shall be adjudicated in Alaska Superior Court.

12. **Attorney's Fees and Costs.** Each Party agrees that it will bear its own costs, including the costs of the Discovery Master and Mediator, other expenses, and attorney's fees arising out of or in connection with the Medical Benefits Case, the DVA Case, and the negotiation, drafting, and execution of this Settlement Agreement.

13. **Counterparts.** This Settlement Agreement may be signed in counterparts. Signatures exchanged or sent via electronic mail (PDF format showing hand signature) will be considered effective to bind the signing Party or Parties.

14. **Severability.** In the event that any term or provision of this Settlement Agreement is determined to be unenforceable, the remainder of this Settlement Agreement shall continue to be valid, effective, and enforceable to the fullest extent permitted by law.

15. **Construction.** This Settlement Agreement shall be treated as having been jointly drafted, and will not be construed against any one Party as the drafter. Each Party has experienced counsel who have contributed to the drafting of this Settlement Agreement, therefore the Settlement Agreement shall not be construed more strictly against one Party in comparison to the other.

ACKNOWLEDGED AND AGREED TO:

The Retired Public Employees of Alaska, Inc.

DATED: February 28, 2022



By: Randall Burns
Its: President

ATTORNEY'S REPRESENTATION

The undersigned declares that I am the attorney representing RPEA and that RPEA is capable of understanding the terms, provisions, and effects of this Settlement Agreement for itself, all of which I have carefully and fully explained to RPEA, and that it has represented to me that it understands all of the terms as well as their significance, and that it voluntarily agrees to said terms.

DATED: February 28, 2022

Reeves Amodio, LLC
Attorney for RPEA,

By: 

Susan Orlansky
Alaska Bar No. 8106042

ACKNOWLEDGED AND AGREED TO:

DATED: February 28, 2022

**STATE OF ALASKA, DEPARTMENT OF
ADMINISTRATION, DIVISION OF
RETIREMENT AND BENEFITS**

Paula Vrana

Paula Vrana
Commissioner, Department of Administration

EXHIBIT "A" TO SETTLEMENT AGREEMENT

Contact Information

AlaskaCare Plan Administrator

Telephone Numbers

State of Alaska, Division of Retirement and Benefits

- Toll-Free.....(800) 821-2251
- In Juneau.....(907) 465-4460
- TDD *for hearing impaired*.....(907) 465-2805

Mailing Address

State of Alaska
Division of Retirement and Benefits
P.O. Box 110203
Juneau, AK 99811-0203

Physical Address

333 Willoughby Avenue, 6th Floor
Juneau, AK 99801

Websites

- AlaskaCare Health Plans..... AlaskaCare.gov
- Division of Retirement and Benefits..... Alaska.gov/drbr

www.aetna.com/healthcare-professionals/policies-guidelines/clinical_policy_bulletins.html

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The Alaska Department of Administration complies with Title II of the Americans with Disabilities Act (ADA) of 1990. This publication is available in alternative communication formats upon request. To make necessary arrangements, contact the ADA Coordinator for the Division of Retirement and Benefits at (907) 465-4460 or contact the TDD for the hearing impaired at (907) 465-2805.

EXHIBIT "A" TO SETTLEMENT AGREEMENT

HEALTH PLAN

Definitions

“Plan Administrator” shall mean the Commissioner of the Department of Administration, State of Alaska, or her designee.

“Aetna” shall mean Aetna Life Insurance Company, an affiliate of Aetna, or a third-party vendor under contract with Aetna. Aetna is the third-party administrator and Claims Administrator of the medical plan.

“Claims Administrator” shall mean a person, firm, or company which has agreed to provide technical or administrative services and advice in connection with the operation of all or a part of a benefit provided for under the plan, and perform such other functions, including processing and payment of claims, as may be delegated to it under such contract. The claims administrator may review claims appeals and, if applicable, coordinate external reviews, as provided by the plan.

1. BENEFIT SUMMARY

This information is only intended to be a summary of coverages provided. Please refer to the booklet for additional information or exclusions. It is important to understand how the plan coordinates with Medicare once you or your dependents reach age 65. Please refer to [section 3.1.7, Effects of Medicare](#) for additional information.

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data;

- d) Generally recognized professional standards of safety and effectiveness in the United States for diagnosis, care or treatment;
- e) The opinion of health professionals in the generally recognized health specialty involved; and
- f) Any other relevant information brought to the claims administrator's attention.

In no event will the following services or supplies be considered medically necessary:

- a) Those that do not require the technical skills of medical, mental health or dental professionals who are acting within the scope of their license;
- b) Those furnished mainly for the personal comfort or convenience of the person, the person's family, anyone who cares for him or her, a health care provider, or health care facility;
- c) Those furnished only because the person is an inpatient on a day when the person could safely and adequately be diagnosed or treated while not confined; or
- d) Those furnished only because of the setting if the service or supply can be furnished in a doctor's or dentist's office or other less costly setting.

3.3.1 Medically Necessary Services and Supplies

The medical plan pays only for medically necessary services and supplies, as defined in Section 3.3, "Covered Medical Expenses." The medical plan will utilize ~~Aetna's~~ the Claims Administrator's current Medical and Pharmacy Clinical Policy Bulletins for purposes of determining medical necessity for services covered under the medical plan: provided, however, that the Plan

EXHIBIT "A" TO SETTLEMENT AGREEMENT

Administrator retains the authority to determine, in her discretion, whether a service or supply is medically necessary. In exercising such discretion, the Plan Administrator shall consider: (a) information provided on the affected person's health status; (b) reports in peer-reviewed medical literature; (c) reports and guidelines published by nationally recognized health care organizations that include supporting scientific data; (d) generally recognized professional standards of safety and effectiveness in the United States for diagnosis, care or treatment; (e) the opinion of health professionals in the generally recognized health specialty involved; and (f) any other relevant information brought to the Plan Administrator's attention. See [section 4.6, Medical Necessity](#) for services covered under the prescription drug benefits. See [page ii](#) for information on accessing the Claims Administrator's Clinical Policy Bulletins. You may access Aetna's Clinical Policy Bulletins at: www.aetna.com/healthcare-professionals/policies-guidelines/clinical-policy-bulletins.html

When ~~Aetna's~~ the Claims Administrator's Clinical Policy Bulletins do not address the specific service or supply under review, a determination of medical necessity will be made when ~~Aetna~~ the Claims Administrator determines that the medical services and supplies or prescription drugs would be given to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, an injury, a disease, or its symptoms by a physician or other health care provider, exercising prudent clinical judgment.

In making a determination of medical necessity when there is no applicable Clinical Policy Bulletin, the provision of the service, supply or prescription drug covered under the medical plan must be:

- a) In accordance with generally accepted standards of medical practice;
- b) Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for the patient's illness,

EXHIBIT "A" TO SETTLEMENT AGREEMENT

12.14.13 Third Level – Division of Retirement and Benefits Appeal

If the claim is denied on external review or, if not eligible for external review, on the second level of appeal, you may send a written appeal to the Division of Retirement and Benefits. If you submit an appeal to the Division, your appeal must be postmarked or received within 60 calendar days of the date the final external review or second level claims administrator decision letter was issued. If you do not file a ~~Plan administrator-Administrator~~ appeal timely, to the extent available under this section, the decision on external review or, if not eligible for external review, the second level of appeal will be the final decision, and will be final, conclusive and binding on all persons.

Upon receipt of your request, the Division will request a copy of your claims administrator or pharmacy benefit manager appeal file, including any documentation needed from your provider. You must submit any additional information not provided with the Level II or IRO level appeal that you wish considered with your written notice to the Division. The Division will review all information and documents to determine if it should be covered under the terms of the health plan. If the appeal involves medical judgment, including but not limited to, those based on the health plan's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit; or its determination that a treatment is experimental or investigational; the Division may refer your appeal to a second IRO in cases where the initial IRO is deemed inadequate, or if substantial new clinical evidence is provided that was not available during the initial IRO review. Otherwise, the Division will make a decision solely based on the whether the initial IRO decision was compliant with the provisions of the plan.

The Division will issue a written decision at the third level appeal

EXHIBIT "A" TO SETTLEMENT AGREEMENT

14.4 APPLICABLE LAW AND VENUE

This plan is issued and delivered in the State of Alaska and is governed by the laws of the State of Alaska. Any and all suits or legal proceedings of any kind that are brought against the State must be filed in ~~the First Judicial District, Juneau, one of the~~ Judicial Districts in the State of Alaska.

14.5 CHANGES TO PLAN

Neither the claims administrator, any agent of the claims administrator, nor the pharmacy benefit manager is authorized to change the form or content of this Plan in any way except by an amendment that becomes part of the plan over the signature of the Plan Administrator.

14.6 CONTRACT LIABILITY

The full extent of liability under this Plan and benefits conferred, including recovery under any claim of breach, will be limited to the actual cost of hospital and medical services as described here and will specifically exclude any claim for general or special damages that includes alleged "pain, suffering, or mental anguish."

14.7 FACILITY OF PAYMENT

Whenever payments which should have been made under this Plan are made under other programs, this Plan has the right, at its discretion, to pay over to any organizations making other payments, any amounts it determines are warranted. These amounts are considered benefits paid under this Plan, and, to the extent of these payments, this Plan is fully discharged from liability under this plan.