

# AlaskaCare Retiree Health Plan Settlement Agreement with RPEA: Overview

Retiree Health Plan Advisory Board

March 25, 2022

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Division of Retirement and Benefits



# Why are we here?

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After nearly six years of litigation, the State of Alaska and the Retired Public Employees of Alaska, Inc. (RPEA) reached a final settlement agreement in two lawsuits involving the AlaskaCare Defined Benefit retiree medical and dental, vision, and audio plans.



# How did we get here?

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- **2013-** The Division of Retirement and Benefits (Division) completed a competitive procurement for a third-party administrator (TPA) to provide claims administration services.
- **2014-** The Division transitioned TPA services from HealthSmart to Aetna (medical, vision, audio claims) and Delta Dental (dental claims).
- **2014-** The Plan Administrator adopted a plan amendment to the AlaskaCare Defined Benefit Retiree Health Plan (Plan) intended to eliminate areas of ambiguity in the plan, provide clarity to members, confirm prior practices, and to align with best industry practices.

# Two Cases

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- RPEA filed two cases against the state.
- Both cases allege, among other things, that the 2014 TPA transition and plan amendment resulted in a diminishment of benefits to members, something prohibited under Article XII, Section 7 of the Alaska Constitution.

2016

The first case was filed in 2016 and focused on the Dental, Vision and Audio (DVA) plan.

2018

The second case was filed in 2018 and involved the medical plan.

# Constitutional Protections

Article XII, Section 7 of the Alaska Constitution states:

“Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship.

Accrued benefits of these systems shall not be diminished or impaired.”





# What is a diminishment?

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The Supreme Court has ruled:

- Modifications to vested benefits are permissible only if they do not diminish the benefit.
- New advantages to employees must offset new disadvantages, resulting in benefits of “equivalent value” to employees.
- Modifications are analyzed from the perspective of the group, rather than the individual circumstances of a particular benefit recipient.
- This analysis must be supported by reliable evidence (actuarial analysis/statistical expert).



# Dental-Vision- Audio (DVA) Case

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# DVA Case: Overview

- The suit alleged the 2014 changes made to DVA plan diminished the plan's benefits.
- The state argued:
  - 1) as an **optional plan** the DVA plan was not subject to the diminishment clause;
  - 2) in the alternative, there was **no diminishment** since the changes resulted in mainstream benefits and reduced premiums which are paid entirely (and directly) by members.



# DVA Case: Alaska Superior Court Rulings

- **2016-** The Superior Court ruled from the bench that the DVA plan was protected from diminishment.
- **2018-** The case went to trial in Superior Court.
- **Spring of 2019-** The Superior Court ruled against the State.
- **Fall of 2019-** The Superior Court issued a series of additional rulings.
- **2020-** The State offered two dental plan options to retirees; the legacy plan (in place prior to 2014) and the standard plan (established in 2014).
- **2021-** The State appealed to the Alaska Supreme Court.
- **2022-** The Alaska Supreme Court issued a ruling.

# DVA Case: Alaska Supreme Court Ruling

- The DVA plan is an accrued benefit with constitutional protections.
- However, the Superior Court erred in determining the plan was diminished because it failed to consider the reduction in premiums paid by retirees when evaluating the impact of the 2014 changes.
- The Superior Court judgments were vacated, including award of attorney's fees to RPEA.
- The case was remanded for a new diminishment analysis using the correct legal standard.

# DVA Ruling: Notable Points

- “We reiterate our admonishment in *Duncan* that a benefit’s “value must be proven by reliable evidence [...] established under the group approach by solid, statistical data drawn from actual experience — including accepted actuarial sources — rather than by unsupported hypothetical projections.”
- “As the plaintiff claiming a constitutional violation, RPEA has the burden to show that the plan’s value has diminished.”
- “Given all these variables, it may be impossible to determine whether the modified plan here is more or less valuable than the plan it replaced. If that turns out to be the case, the court should look to whether the modification reflects a good faith effort by the State to continue providing a viable plan in keeping with mainstream DVA coverage for active public employees.”

*Department of Administration v. The Retired Public Employees of Alaska, Inc.*, 502 P.3d 422 (Alaska 2022)



# Medical Case

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# Medical Case: Overview

- RPEA filed a second case against the Division in 2018. The crux of the lawsuit was the addition of a reference to Aetna's clinical policy bulletins in the plan without prior notice to beneficiaries.
- RPEA also claimed that the Division breached its fiduciary duties and violated retirees' due process rights through the adoption of amendment 2014-1.
- The lawsuit also challenged Amendment 2016-1 (Medicare deductible) as well as the Division's implementation of EGWP (voluntarily dismissed).



# Medical Case: Timeline & Rulings

- **2018**- Case was filed by RPEA.
- **2019**- Discovery process began (time consuming and expensive).
- **2020**- Superior Court issued order re: fiduciary duties.  
Summary judgement re: Medicare deductible.
- **2021**- Summary judgement re: burden of proof and persuasion.  
Summary judgement re: RPEA standing & restitutionary relief.  
Discovery process ongoing.
- **2022**- Parties agreed to mediate.  
DVA Supreme Court decision issued shortly before mediation.  
Mediation expanded to include both cases.

# Benefits of Settlement

- Mitigates future risk of diminishment cases by memorializing the current process the Division uses.
- Ensures continued public notice and engagement.
- The settlement achieves more for retirees than they could have received through trial.
- The agreement maintains constitutional protections against diminishment.

# Settlement: DVA Terms

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Members retain access to both dental plans.

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Legacy plan may be terminated when premiums exceed a certain threshold.

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Standard plan will become the default plan for new members.

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Open enrollment information will include information about out-of-network differences.

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Premiums for each dental plan will be based on the claims cost for each plan.

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Information used to determine premiums will continue to be made publicly available.

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Changes to the dental plans will follow the same process as medical plan.

# Settlement: Medical Terms

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Adopt

Adopt a plan amendment.

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Issue

Issue a benefit clarification addressing maintenance care visits for musculoskeletal disorders.

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Recommend

Division will recommend extension of the Retiree Health Plan Advisory Board (the Board) and provide an additional seat designated for an RPEA member.

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Recommend

Division will recommend the Board create a regulation subcommittee.

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Recommend

Division will recommend the Board add a member of RPEA to the modernization subcommittee and the regulation subcommittee.

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# Settlement: Medical Terms Cont...



The Division will draft a regulation describing the process used to make plan changes. (This does not constitute negotiated rulemaking.)



The Division will solicit input from the Board on the proposed process.



The process will encapsulate the Division's current process for evaluating plan changes (e.g. beneficiary, actuarial, financial, operational impacts).



The process will offer opportunity for review and public comment as well as notice and outreach of proposed changes.



The Commissioner and RPEA will support the process regulations.



# Role of the Board

- There are certain timeframes and deadlines outlined in the settlement agreement.
- The Division is monitoring those to ensure sufficient time for the Board to consider the recommendations and take action.
- The Division issued the recommendations required by the settlement agreement in the Board packet.
- If the Board decides to take action on these recommendations,
- additional meetings in April will need to be scheduled.

Two bald eagles are perched on a piece of weathered driftwood. The eagle on the left is facing forward, while the one on the right is looking slightly to the right. They have white heads and necks with dark brown bodies. The background shows a blurred landscape of snow-covered mountains and a body of water under a clear sky.

Together we can do so much.  
Questions?