

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

THE RETIRED PUBLIC EMPLOYEES)
OF ALASKA, INC.,)

Plaintiff,)

v.)

Case No. 3AN-16-04537 CI

KELLY TSHIBAKA, COMMISSIONER)
OF THE ALASKA DEPARTMENT OF)
ADMINISTRATION,)

Defendant.)

~~[Proposed]~~ *PEA*
REVISED

**ORDER GRANTING RPEA'S MOTION
TO ENFORCE COURT ORDER AND FOR RELATED RELIEF**

The court has considered RPEA's motion, the State's response, and RPEA's reply and the statements of both counsel at the status conference held on November 19, 2019. The court concludes that the relief requested is reasonably necessary to enforce this court's order of April 16, 2019. Accordingly, the motion is granted, and the court orders as follows:

(1) The State is prohibited from continuing to offer only the unconstitutional 2014 plan throughout 2019; the State must offer members some short-term relief from the unconstitutional diminishment of benefits.

As long as the State is offering only the 2014 plan, the State shall inform members whose claims are denied if that claim would have been covered under the 2013 plan. If

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the State claims it cannot immediately begin making that determination for every claim denied, the State must instead inform all members whose claims are denied that “This claim might have been covered under the previous plan. The denial will be reviewed by the Division and further information will be provided as soon as feasible.” The State must then complete that review as soon as possible and advise members when the State has determined that a claim that was denied would have been covered under the 2013 plan.

(2) The State is prohibited from establishing the unconstitutional 2014 plan as the default plan under the two-plan system it is designing for 2020. Any member who does not affirmatively select participation in the 2014 plan shall be treated as having chosen to participate in the 2013 plan.

(3) The State is directed to begin promptly to conduct a complete retrospective review of claims denied under the 2014 plan that would have been granted had the 2013 plan remained in effect. The State shall notify the court and RPEA when the review begins, how long it should take, and when it is concluded. The State also shall provide RPEA with a complete copy of correspondence between the State and Moda or Segal (or whoever is engaged to conduct the review), so that RPEA is informed about the scope


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and nature of the review, and the data that are used. When the review is complete, the State shall provide a copy of the report that identifies the claims that were denied.¹

(4) The State shall provide RPEA with its complete premium rate analysis and all data used in the analysis to determine the new rates. This information shall be provided as soon as it is available.

(5) The State shall disclose to RPEA and the court all costs it incurs to develop and implement the two-plan system, and shall specify which funds, if any, are taken from members' premiums. The initial disclosure shall be made within 10 days of this order, with follow-ups at regular intervals of not less than 30 days, as additional funds are expended.

Entered at Anchorage, Alaska, this 11 day of November 2019.


Eric A. Aarseth
Superior Court Judge

I certify that on 11-21-19 a copy of the following was mailed/mailed to each of the following at their addresses of record.


Administrative Assistant 

¹ Such a report will be subject to the protective order in place in this case, which allows RPEA to receive HIPAA-protected information and requires RPEA to protect its confidentiality.