

Time for state to retake control of AlaskaCare

February 15, 2015

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Fairbanks Daily News-Miner Community Perspective

FAIRBANKS — If you've ever been to the doctor, dentist or any other health provider who was covered by your health insurance and you are a state employee or retiree covered by the state's AlaskaCare health plan, you need to keep reading. On Dec. 31, 2013, the health plan you have always known was changed in ways you could never imagine. And not in a good way.

The AlaskaCare Health Plans are self-funded plans that were authorized in 1997 and governed by the state according to the authorization under AS 39.30.090 for some of its employees and the majority of its 90,000 retirees and dependents. Before 1997, that health insurance was purchased as a "fully insured" product from Aetna. Aetna told the state what was covered under their product, how it was covered and what could be done about it if a claim was not covered.

Aetna took on the financial risk of all health claims paid, using its own dollars, for a premium amount collected every month from covered employees and retirees. Since Aetna held all the risk, it seems fair that they also said what the premiums cost. Aetna either lost money or gained money each year based on the accuracy of their claim payout and premium income forecasts. Aetna was the plan fiduciary.

A plan fiduciary has discretionary authority or control with respect to management of the plan or the disposition of plan assets, and also has discretionary authority or responsibility for the administration of the plan.

Changing to a self-funded type of coverage in 1997 meant the state became the plan fiduciary, accepting the financial risk of paying health claims and deciding how much to charge for premiums. The state then had to determine what was covered, how it was covered, when it was covered, and when it would not be covered. So they wrote a coverage booklet. And they set up procedures and policies to provide a way for appeals to be filed and grievances to be aired. That seemed to work fairly well until Jan. 1, 2014. That's when the Department of Administration decided it was going to hand over all claim authority to Aetna (and MODA for dental) for what was covered, how it was covered, when it was covered and when it would not be covered.

Oh, and the state also decided it was OK for Aetna to handle all appeals and grievances. What happened to the fiduciary responsibility of the state in all this? I'm not sure. But it is a valid question.

Before AlaskaCare was created as the state's self-funded health insurance plan in 1997, Aetna and the products they sold were governed by Alaska Statute Title 21 for commercial insurance. Those statutes protected the interests of the covered employees and retirees from a commercial coverage taking advantage of them. Aetna had to follow those laws to the letter, including the managed care concepts of providing health insurance found in AS 21.07.250 (8-11)'s definitions. All of the provisions of Title 21, Chapter 7 had to be followed for any managed care plan to

operate in Alaska. Any entity providing health insurance (in a fully funded plan) in Alaska must also abide by the laws in 3 AAC 26.110 related to prompt, fair and equitable settlement of health claims.

But hold the phone. AlaskaCare is not governed by those laws.

Since they became self-funded in 1997, they are governed by AS 39.30.090 (and other statutes) as well as the Employment Retirement Income Security Act (ERISA). The Division of Insurance has no jurisdiction over AlaskaCare, and covered employees and retirees can't go to the Division of Insurance to cry "Foul!" They can no longer go to the Division of Retirement and Benefits with a grievance because the Department of Administration has allowed Aetna and MODA Dental to make these decisions and handle all appeals. So Aetna is operating its own managed-care-type participating provider organization (PPO) plan, calling it AlaskaCare, without having to follow the laws related to managed care in Alaska or having to accept any financial responsibility for the payment of those claims.

In conclusion, we see that as of Jan. 1, 2014, the state has given covered employees and retirees a health plan that is no longer "administrated" by the Department of Administration (the Commissioner is the plan's fiduciary by Alaska state law), but is a hybrid plan that is neither a commercial product nor a self-funded with fiduciary responsibility plan. Where does this leave the covered employees and retirees? Unfortunately, without any representation from the state, whose job is to "act in good faith with regard to the interests of another" as the fiduciary.

If you are a covered employee or retiree of AlaskaCare, write your state representatives and senators and tell them the state of Alaska Department of Administration needs to continue to do its fiduciary job and not allow an entity that has no financial stake in your health funds to manage your health or your health plan. You have been given a health plan as of Jan. 1, 2014, that is not what you agreed to and not what you should accept.

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