

Explanation about the Lawsuit RPEA Retiree Benefits Committee

On January 30, 2016, RPEA filed a lawsuit against the State. A copy of the complaint is on the RPEA website. This is to provide an explanation and some background about why RPEA filed this lawsuit.

This lawsuit is a request for declaratory relief by the court. It is a very focused and limited lawsuit. It simply asks the court to rule that the optional health insurance -- the Dental/Vision/Audio (DVA) and Long Term Care (LTC) plans that the State makes available to State employees upon retirement -- is part of the legally protected vested medical benefits established under the retirement statutes. These benefits are not only available to state employees at the time they retire, but are also available to public school teachers, local government employees, local and state law enforcement personnel, University of Alaska faculty and staff, Court System staff, judges, retired legislators and national guard retirees.

It is important to understand that each of these health insurance plans are **fully funded solely by the retirees who elect to participate** in them at the time of retirement. All of the benefits and costs of administration are paid from the premiums charged by the state. These premiums are deducted from the pension payments made to retirees each month. **None of the costs for any of the benefits or administration of these plans come from the State's general fund or the retirement trust fund.**

This lawsuit focuses primarily on the dental portion of the DVA plan. Prior to January 2014, the coverage and benefits for dental benefits were described in the 2003 AlaskaCare Retiree Insurance Booklet. The coverage and benefits provided under the dental plan described in this Booklet had been provided to retirees and beneficiaries for many years without any significant changes. This is because the premiums for the dental benefits were paid entirely by the retirees. If the premiums needed to be adjusted to ensure adequate reserves to cover the dental benefits, the state would adjust the premium amount deducted from each retiree's monthly pension payment.

Unfortunately, in 2013 several people working in the Department of Administration under Commissioner Hultberg, and subsequently in 2014 under Commissioner Thayer, decided to cut "costs" in both the active employee and retiree dental plans. Whatever reason there may have been to change or decrease coverage and benefits in order to cut costs in the active employee dental plan, there was no basis or need to do so in the

retiree dental plan. Virtually without warning and no opportunity for any input by retirees, the state simply repealed the existing retiree dental plan that had been in place for more than a dozen years and replaced it with the provisions of a basic commercial plan administered by Moda Health. As a result, many of the benefits provided to retirees under the prior dental plan were either eliminated or modified.

But worse than these changes was the imposition of a dental network by Moda under the direction of the Division of Retirement & Benefits. Whatever usefulness that idea might have, its impact on retirees was quick and significant. Not only did Moda fail to put together an adequate network of dental providers, more damaging was the 25% penalty assessed **only to retirees who are Alaska residents**, by the State under the Moda plan for any work performed by an out-of-network provider. Retirees who are residents of other states are not assessed the 25% penalty. Because of the penalty and other diminished benefits under this Moda plan, RPEA immediately objected to the Moda plan. Despite regular and persistent efforts by RPEA to convince the state to revert back to the prior dental plan, the state refused.

In 2003, the Alaska Supreme Court, in the case of *Duncan v. Retired Public Employees of Alaska*, ruled that all the retirement benefits which make up the retirement benefit package, including health insurance benefits, are accrued benefits that are protected by the Alaska Constitution. The Court ruled that these benefits cannot be diminished or impaired. The State has taken the position that this ruling only applies to medical benefits -- not to the optional health insurance such as dental benefits. Because this dispute exists between retirees and the state, RPEA was compelled to file this lawsuit seeking the court's assistance in resolving this legal dispute.

If any additional information and/or explanation is needed, you may send a request to Sharon Hoffbeck, Chair of the Retiree Benefits Committee, who can be reached at sharonhoffbeck@gmail.com.