

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT _____

| | | |
|------------------------------------|---|----------------|
| _____ |) | |
| Appellant (person bringing appeal) |) | |
| vs. |) | |
| STATE OF ALASKA, DEPARTMENT OF |) | |
| ADMINISTRATION, DIVISION OF |) | CASE NO. _____ |
| RETIREMENT AND BENEFITS, |) | CI |
| Appellee |) | |
| _____ |) | |

MOTION TO SUPPLEMENT THE RECORD
or alternatively
MOTION FOR PARTIAL NEW (*DE NOVO*) REVIEW

I. Motion to Supplement the Record

I am the Appellant who brought this appeal. I ask the Court to supplement the record. Efforts between me and the attorney for the other side¹ to agree on the accurate and complete record were not fully successful. DRB failed to include or provide accurate and complete records of its underlying administrative decisions then and still today. The result is a denial of due process. For example [*check all that apply*]:

- Health Plan. DRB used the wrong health plan in the agency record.
- Recognized Charge Data. DRB says that my health claims were partially denied because my provider’s charges were above the “recognized charge.” In my appeal, I asked for data in DRB’s possession or control about actual prevailing charge rates for the same or similar procedure in the geographic area where my procedure was done, but the agency refused to provide it and refused to include it in the agency record. DRB also failed to provide other data about the recognized charge that I requested. DRB says that the information I requested was not part of, or relevant to, its decision whether to reimburse for my provider’s actual charges.
- Medical Records. DRB failed to include medical records about the denied claims in the agency record. DRB says the medical records were not part of, or relevant to, its decision whether to reimburse for the claims.

¹ The Appellee, Division of Retirement and Benefits (DRB). Under DRB’s contract with Aetna Life Insurance Company (Aetna), Aetna administers health care claims and conducts administrative appeals on DRB’s behalf. Reference to actions by DRB in this case include actions by Aetna in its role as claims administrator and fiduciary. See State of Alaska AlaskaCare Employee Health Plan at §7.9, §7.14, & §7.15.3 at <http://doa.alaska.gov/drb/pdf/ghlb/akcare/SelectBenefitsEmployeeBooklet2017.pdf>.

In light of the information in this *Motion* and related *Affidavit*, I respectfully ask this Court to require supplementation of the record or, in the alternative, order a new (*de novo*) review that includes the essential information.

Dated: _____ Appellant's Signature: _____

Daytime Phone: _____ Email: _____

CERTIFICATE OF SERVICE

I certify that on this date: _____, a true and correct copy of the following was served on the party of record listed below by first class mail, postage pre-paid [*check all that apply*]:

- Motion to Supplement Record or alternatively, for Partial New (De Novo) Review*
- draft Order on Motion to Supplement*
- Affidavit about the Motion to Supplement*
- Exhibits related to the *Motion to Supplement* and a list of exhibits if needed

Party of record:

Assistant Attorney General

Attorney's Name: _____

State of Alaska, Labor & State Affairs Section

Street Address: _____

City, State, Zip: _____

Dated: _____ Signature of Person Serving Copies: _____

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AFFIDAVIT IN SUPPORT OF MOTION TO SUPPLEMENT THE RECORD
***or alternatively* MOTION FOR PARTIAL NEW (DE NOVO) REVIEW**

1. I state the following upon oath or affirmation and under penalty of perjury.
2. I am the appellant (person bringing the appeal) in this case.
 I am the attorney for the appellant in this case.
3. I made a good faith effort to reach agreement with the Appellee (DRB) about the administrative appeal record. That effort is accurately described in the *Motion to Supplement the Record or alternatively Motion for Partial New (De Novo) Review*.
4. The issues raised by me about the agency appeal record were not fully resolved.

Signature of Appellant (*sign in front of a notary*): _____

Daytime Phone: _____ Email: _____

Subscribed and sworn to or affirmed before me at _____, Alaska

on _____
(date)

(SEAL)

Clerk of Court, Notary Public, or other
person authorized to administer oaths.
My commission expires _____

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**ORDER ON MOTION TO SUPPLEMENT RECORD
OR FOR PARTIAL *DE NOVO* REVIEW**

Appellant filed a motion asking the Court to supplement the agency record or, alternatively, for a partial *de novo* review.

- The motion is **GRANTED.**
- The motion is **DENIED.**
- The following is also ORDERED:

Date

Judicial Officer Signature

Print or Type Name