

2SSB 5958 - S AMD 129

By Senators Keiser, Marr

ADOPTED 03/09/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** It is the public policy of Washington to
4 promote access to medical care for all citizens and to encourage
5 innovative arrangements between patients and providers that will help
6 provide all citizens with a medical home.

7 Washington needs a multipronged approach to provide adequate health
8 care to many citizens who lack adequate access to it. Direct patient-
9 provider practices, in which patients enter into a direct relationship
10 with medical practitioners and pay a fixed amount directly to the
11 health care provider for primary care services, represent an
12 innovative, affordable option which could improve access to medical
13 care, reduce the number of people who now lack such access, and cut
14 down on emergency room use for primary care purposes, thereby freeing
15 up emergency room facilities to treat true emergencies.

16 **Sec. 2.** RCW 48.44.010 and 1990 c 120 s 1 are each amended to read
17 as follows:

18 For the purposes of this chapter:

19 (1) "Health care services" means and includes medical, surgical,
20 dental, chiropractic, hospital, optometric, podiatric, pharmaceutical,
21 ambulance, custodial, mental health, and other therapeutic services.

22 (2) "Provider" means any health professional, hospital, or other
23 institution, organization, or person that furnishes health care
24 services and is licensed to furnish such services.

25 (3) "Health care service contractor" means any corporation,
26 cooperative group, or association, which is sponsored by or otherwise
27 intimately connected with a provider or group of providers, who or
28 which not otherwise being engaged in the insurance business, accepts
29 prepayment for health care services from or for the benefit of persons

1 or groups of persons as consideration for providing such persons with
2 any health care services. "Health care service contractor" does not
3 include direct patient-provider primary care practices as defined in
4 section 3 of this act.

5 (4) "Participating provider" means a provider, who or which has
6 contracted in writing with a health care service contractor to accept
7 payment from and to look solely to such contractor according to the
8 terms of the subscriber contract for any health care services rendered
9 to a person who has previously paid, or on whose behalf prepayment has
10 been made, to such contractor for such services.

11 (5) "Enrolled participant" means a person or group of persons who
12 have entered into a contractual arrangement or on whose behalf a
13 contractual arrangement has been entered into with a health care
14 service contractor to receive health care services.

15 (6) "Commissioner" means the insurance commissioner.

16 (7) "Uncovered expenditures" means the costs to the health care
17 service contractor for health care services that are the obligation of
18 the health care service contractor for which an enrolled participant
19 would also be liable in the event of the health care service
20 contractor's insolvency and for which no alternative arrangements have
21 been made as provided herein. The term does not include expenditures
22 for covered services when a provider has agreed not to bill the
23 enrolled participant even though the provider is not paid by the health
24 care service contractor, or for services that are guaranteed, insured
25 or assumed by a person or organization other than the health care
26 service contractor.

27 (8) "Copayment" means an amount specified in a group or individual
28 contract which is an obligation of an enrolled participant for a
29 specific service which is not fully prepaid.

30 (9) "Deductible" means the amount an enrolled participant is
31 responsible to pay before the health care service contractor begins to
32 pay the costs associated with treatment.

33 (10) "Group contract" means a contract for health care services
34 which by its terms limits eligibility to members of a specific group.
35 The group contract may include coverage for dependents.

36 (11) "Individual contract" means a contract for health care
37 services issued to and covering an individual. An individual contract
38 may include dependents.

1 (12) "Carrier" means a health maintenance organization, an insurer,
2 a health care service contractor, or other entity responsible for the
3 payment of benefits or provision of services under a group or
4 individual contract.

5 (13) "Replacement coverage" means the benefits provided by a
6 succeeding carrier.

7 (14) "Insolvent" or "insolvency" means that the organization has
8 been declared insolvent and is placed under an order of liquidation by
9 a court of competent jurisdiction.

10 (15) "Fully subordinated debt" means those debts that meet the
11 requirements of RCW 48.44.037(3) and are recorded as equity.

12 (16) "Net worth" means the excess of total admitted assets as
13 defined in RCW 48.12.010 over total liabilities but the liabilities
14 shall not include fully subordinated debt.

15 NEW SECTION. **Sec. 3.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Direct patient-provider primary care practice" and "direct
18 practice" means a provider, group, or entity that meets the following
19 criteria in (a), (b), (c), and (d) of this subsection:

20 (a)(i) A health care provider who furnishes primary care services
21 through a direct agreement;

22 (ii) A group of health care providers who furnish primary care
23 services through a direct agreement; or

24 (iii) An entity that sponsors, employs, or is otherwise affiliated
25 with a group of health care providers who furnish only primary care
26 services through a direct agreement, which entity is wholly owned by
27 the group of health care providers or is a nonprofit corporation exempt
28 from taxation under section 501(c)(3) of the internal revenue code, and
29 is not otherwise regulated as a health care service contractor, health
30 maintenance organization, or disability insurer under Title 48 RCW.
31 Such entity is not prohibited from sponsoring, employing, or being
32 otherwise affiliated with other types of health care providers not
33 engaged in a direct practice;

34 (b) Enters into direct agreements with direct patients or parents
35 or legal guardians of direct patients;

36 (c) Does not accept payment for health care services provided to

1 direct patients from any entity subject to regulation under Title 48
2 RCW; and

3 (d) Does not provide, in consideration for the direct fee,
4 services, procedures, or supplies such as prescription drugs,
5 hospitalization costs, major surgery, dialysis, high level radiology
6 (CT, MRI, PET scans or invasive radiology), rehabilitation services,
7 procedures requiring general anesthesia, or similar advanced
8 procedures, services, or supplies.

9 (2) "Direct patient" means a person who is party to a direct
10 agreement and is entitled to receive primary care services under the
11 direct agreement from the direct practice.

12 (3) "Direct fee" means a fee charged by a direct practice as
13 consideration for being available to provide and providing primary care
14 services as specified in a direct agreement. The fee must represent
15 the total amount due for all health care services specified in the
16 direct agreement and may be paid by the direct patient or on his or her
17 behalf by others.

18 (4) "Direct agreement" means a written agreement entered into
19 between a direct practice and an individual direct patient, or the
20 parent or legal guardian of the direct patient or a family of direct
21 patients, whereby the direct practice charges a direct fee as
22 consideration for being available to provide and providing health care
23 services to the individual direct patient. A direct agreement must (a)
24 describe the specific health care services the direct practice will
25 provide; (b) be terminable at will upon written notice by the direct
26 patient; and (c) include the following disclaimer: "This agreement
27 does not provide comprehensive health insurance coverage. It provides
28 only the health care services specifically described." The direct
29 agreement may not be sold to a group and may not be entered with a
30 group of subscribers. It must be an agreement between a direct
31 practice and an individual direct patient. Nothing prohibits the
32 presentation of marketing materials to groups of potential subscribers
33 or their representatives.

34 (5) "Health care provider" or "provider" means a person regulated
35 under Title 18 RCW or chapter 70.127 RCW to practice health or health-
36 related services or otherwise practicing health care services in this
37 state consistent with state law.

1 (6) "Health carrier" or "carrier" has the same meaning as in RCW
2 48.43.005.

3 (7) "Primary care" means routine health care services, including
4 screening, assessment, diagnosis, and treatment for the purpose of
5 promotion of health, and detection and management of disease or injury.

6 (8) "Network" means the group of participating providers and
7 facilities providing health care services to a particular health
8 carrier.

9 NEW SECTION. **Sec. 4.** (1) A direct practice must charge a direct
10 fee on a monthly basis.

11 (2) A direct practice must:

12 (a) Maintain appropriate accounts and provide data regarding
13 payments made and services received to direct patients upon request;
14 and

15 (b) Either:

16 (i) Bill patients at the end of each monthly period; or

17 (ii) If the patient pays the monthly fee in advance, promptly
18 refund to the direct patient all unearned direct fees following receipt
19 of written notice of termination of the direct agreement from the
20 direct patient. The amount of the direct fee considered earned shall
21 be a proration of the monthly fee as of the date the notice of
22 termination is received.

23 (3) If the patient chooses to pay more than one monthly direct fee
24 in advance, the funds will be held in a trust account and paid to the
25 direct practice as earned at the end of each month. Any unearned
26 direct fees held in trust following receipt of termination of the
27 direct agreement shall be promptly refunded to the direct patient. The
28 amount of the direct fee earned shall be a proration of the monthly fee
29 for the then current month as of the date the notice of termination is
30 received.

31 (4) A direct practice must designate a contact person to receive
32 and address any patient complaints.

33 NEW SECTION. **Sec. 5.** (1) Direct practices may not:

34 (a) Enter into a participating provider contract as defined in RCW
35 48.44.010 or 48.46.020 with any carrier or with any carrier's

1 contractor or subcontractor to provide health care services through a
2 direct agreement except as set forth in subsection (2) of this section;

3 (b) Submit a claim for payment to any carrier or any carrier's
4 contractor or subcontractor for health care services provided to direct
5 patients as covered by their agreement;

6 (c) With respect to services provided through a direct agreement,
7 be identified by a carrier or any carrier's contractor or subcontractor
8 as a participant in the carrier's or any carrier's contractor or
9 subcontractor network for purposes of determining network adequacy or
10 being available for selection by an enrollee under a carrier's benefit
11 plan; or

12 (d) Pay for health care services covered by a direct agreement
13 rendered to direct patients by providers other than the providers in
14 the direct practice or their employees, except as described in
15 subsection (2)(b) of this section.

16 (2) Direct practices and providers may:

17 (a) Enter into a participating provider contract as defined by RCW
18 48.44.010 and 48.46.020 for purposes other than payment of claims for
19 services provided to direct patients through a direct agreement. Such
20 providers shall be subject to all other provisions of the participating
21 provider contract applicable to participating providers including but
22 not limited to the right to:

23 (i) Make referrals to other participating providers;

24 (ii) Admit the carrier's members to participating hospitals and
25 other health care facilities;

26 (iii) Prescribe prescription drugs; and

27 (iv) Implement other customary provisions of the contract not
28 dealing with reimbursement of services;

29 (b) Pay for charges associated with the provision of routine lab
30 and imaging services provided in connection with wellness physical
31 examinations. In aggregate such payments per year per direct patient
32 are not to exceed fifteen percent of the total annual direct fee
33 charged that direct patient. Exceptions to this limitation may occur
34 in the event of short-term equipment failure if such failure prevents
35 the provision of care that should not be delayed; and

36 (c) Charge an additional fee to direct patients for supplies,
37 medications, and specific vaccines provided to direct patients that are

1 specifically excluded under the agreement, provided the direct practice
2 notifies the direct patient of the additional charge, prior to their
3 administration or delivery.

4 NEW SECTION. **Sec. 6.** (1) Direct practices may not decline to
5 accept new direct patients or discontinue care to existing patients
6 solely because of the patient's health status. A direct practice may
7 decline to accept a patient if the practice has reached its maximum
8 capacity, or if the patient's medical condition is such that the
9 provider is unable to provide the appropriate level and type of health
10 care services in the direct practice or if the direct practice
11 reasonably determines that the patient would be better served by
12 another health care provider.

13 (2) Direct practices may accept payment of direct fees directly or
14 indirectly from nonemployer third parties.

15 NEW SECTION. **Sec. 7.** Direct practices, as defined in section 3 of
16 this act, who comply with this chapter are not insurers under RCW
17 48.01.050, health carriers under chapter 48.43 RCW, health care service
18 contractors under chapter 48.44 RCW, or health maintenance
19 organizations under chapter 48.46 RCW.

20 NEW SECTION. **Sec. 8.** A person shall not make, publish, or
21 disseminate any false, deceptive, or misleading representation or
22 advertising in the conduct of the business of a direct practice, or
23 relative to the business of a direct practice.

24 NEW SECTION. **Sec. 9.** A person shall not make, issue, or
25 circulate, or cause to be made, issued, or circulated, a
26 misrepresentation of the terms of any direct agreement, or the benefits
27 or advantages promised thereby, or use the name or title of any direct
28 agreement misrepresenting the nature thereof.

29 NEW SECTION. **Sec. 10.** Violations of this chapter constitute
30 unprofessional conduct enforceable under RCW 18.130.180.

31 NEW SECTION. **Sec. 11.** (1) Direct practices must submit annual
32 statements to the office of insurance commissioner specifying the

1 number of providers in each practice, total number of patients being
2 served, providers' names, and the business address for each direct
3 practice. The form for the annual statement will be developed in a
4 manner prescribed by the commissioner.

5 (2) A health care provider may not act as, or hold himself or
6 herself out to be, a direct practice in this state, nor may a direct
7 agreement be entered into with a direct patient in this state, unless
8 the provider submits the annual statement in subsection (1) of this
9 section to the commissioner.

10 (3) The commissioner shall report annually to the legislature on
11 direct practices. The initial report shall be due December 1, 2009.

12 NEW SECTION. **Sec. 12.** A comprehensive disclosure statement shall
13 be distributed to all direct patients with their enrollment forms.
14 Such disclosure must inform the direct patients of their financial
15 rights and responsibilities to the direct practice as provided for in
16 this chapter, encourage that direct patients obtain and maintain
17 insurance for services not provided by the direct practice, and state
18 that the direct practice will not bill a carrier for services covered
19 under the direct agreement. The disclosure statement shall include
20 contact information for the office of the insurance commissioner.

21 NEW SECTION. **Sec. 13.** Sections 3 through 12 of this act
22 constitute a new chapter in Title 48 RCW."

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23 On page 1, line 1 of the title, after "delivery;" strike the
24 remainder of the title and insert "amending RCW 48.44.010; adding a new
25 chapter to Title 48 RCW; and creating a new section."

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