
SENATE BILL 5436

State of Washington 61st Legislature 2009 Regular Session

By Senators Murray, Keiser, Pflug, Marr, Parlette, Kastama, and Roach

Read first time 01/22/09. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to payment arrangements involving direct practices;
2 and amending RCW 48.150.010, 48.150.040, and 48.150.050.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.150.010 and 2007 c 267 s 3 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

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

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

15 (iii) An entity that sponsors, employs, or is otherwise affiliated
16 with a group of health care providers who furnish only primary care
17 services through a direct agreement, which entity is wholly owned by
18 the group of health care providers or is a nonprofit corporation exempt
19 from taxation under section 501(c)(3) of the internal revenue code, and

1 is not otherwise regulated as a health care service contractor, health
2 maintenance organization, or disability insurer under Title 48 RCW.
3 Such entity is not prohibited from sponsoring, employing, or being
4 otherwise affiliated with other types of health care providers not
5 engaged in a direct practice;

6 (b) Enters into direct agreements with direct patients or parents
7 or legal guardians of direct patients;

8 (c) Does not accept payment for health care services provided to
9 direct patients from any entity subject to regulation under Title 48
10 RCW((~~7~~)) or plans administered under chapter 41.05, 70.47, or 70.47A
11 RCW((~~7~~, ~~or self-insured plans~~)); and

12 (d) Does not provide, in consideration for the direct fee,
13 services, procedures, or supplies such as prescription drugs,
14 hospitalization costs, major surgery, dialysis, high level radiology
15 (CT, MRI, PET scans or invasive radiology), rehabilitation services,
16 procedures requiring general anesthesia, or similar advanced
17 procedures, services, or supplies.

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

21 (3) "Direct fee" means a fee charged by a direct practice as
22 consideration for being available to provide and providing primary care
23 services as specified in a direct agreement.

24 (4) "Direct agreement" means a written agreement entered into
25 between a direct practice and an individual direct patient, or the
26 parent or legal guardian of the direct patient or a family of direct
27 patients, whereby the direct practice charges a direct fee as
28 consideration for being available to provide and providing primary care
29 services to the individual direct patient. A direct agreement must (a)
30 describe the specific health care services the direct practice will
31 provide; and (b) be terminable at will upon written notice by the
32 direct patient.

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

37 (6) "Health carrier" or "carrier" has the same meaning as in RCW
38 48.43.005.

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

4 (8) "Network" means the group of participating providers and
5 facilities providing health care services to a particular health
6 carrier's health plan or to plans administered under chapter 41.05,
7 70.47, or 70.47A RCW.

8 **Sec. 2.** RCW 48.150.040 and 2007 c 267 s 6 are each amended to read
9 as follows:

10 (1) Direct practices may not:

11 (a) Enter into a participating provider contract as defined in RCW
12 48.44.010 or 48.46.020 with any carrier or with any carrier's
13 contractor or subcontractor, or plans administered under chapter 41.05,
14 70.47, or 70.47A RCW, to provide health care services through a direct
15 agreement except as set forth in subsection (2) of this section;

16 (b) Submit a claim for payment to any carrier or any carrier's
17 contractor or subcontractor, or plans administered under chapter 41.05,
18 70.47, or 70.47A RCW, for health care services provided to direct
19 patients as covered by their agreement;

20 (c) With respect to services provided through a direct agreement,
21 be identified by a carrier or any carrier's contractor or
22 subcontractor, or plans administered under chapter 41.05, 70.47, or
23 70.47A RCW, as a participant in the carrier's or any carrier's
24 contractor or subcontractor network for purposes of determining network
25 adequacy or being available for selection by an enrollee under a
26 carrier's benefit plan; or

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

31 (2) Direct practices and providers may:

32 (a) Enter into a participating provider contract as defined by RCW
33 48.44.010 and 48.46.020 or plans administered under chapter 41.05,
34 70.47, or 70.47A RCW for purposes other than payment of claims for
35 services provided to direct patients through a direct agreement. Such
36 providers shall be subject to all other provisions of the participating

1 provider contract applicable to participating providers including but
2 not limited to the right to:

- 3 (i) Make referrals to other participating providers;
- 4 (ii) Admit the carrier's members to participating hospitals and
5 other health care facilities;
- 6 (iii) Prescribe prescription drugs; and
- 7 (iv) Implement other customary provisions of the contract not
8 dealing with reimbursement of services;

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

16 (c) Charge an additional fee to direct patients for supplies,
17 medications, and specific vaccines provided to direct patients that are
18 specifically excluded under the agreement, provided the direct practice
19 notifies the direct patient of the additional charge, prior to their
20 administration or delivery.

21 **Sec. 3.** RCW 48.150.050 and 2007 c 267 s 7 are each amended to read
22 as follows:

23 (1) Direct practices may not decline to accept new direct patients
24 or discontinue care to existing patients solely because of the
25 patient's health status. A direct practice may decline to accept a
26 patient if the practice has reached its maximum capacity, or if the
27 patient's medical condition is such that the provider is unable to
28 provide the appropriate level and type of health care services in the
29 direct practice. So long as the direct practice provides the patient
30 notice and opportunity to obtain care from another physician, the
31 direct practice may discontinue care for direct patients if: (a) The
32 patient fails to pay the direct fee under the terms required by the
33 direct agreement; (b) the patient has performed an act that constitutes
34 fraud; (c) the patient repeatedly fails to comply with the recommended
35 treatment plan; (d) the patient is abusive and presents an emotional or
36 physical danger to the staff or other patients of the direct practice;
37 or (e) the direct practice discontinues operation as a direct practice.

1 (2) Subject to the restrictions established in this chapter, direct
2 practices may accept payment of direct fees directly or indirectly from
3 (~~nonemployer~~) third parties.

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