

SHB 1638 - H AMD 172

By Representative Schmick

WITHDRAWN 03/08/2013

1 On page 15, after line 34, insert the following:

2 "NEW SECTION. Sec. 15. A new section is added to chapter 48.02 RCW
3 to read as follows:

4 (1) An agency practice, policy, or procedure used when
5 administering, interpreting, enforcing, or implementing any law is not
6 effective before and unless all of the following have been met:

7 (a) The insurance commissioner has communicated the practice,
8 policy, or procedure in writing to those affected at least thirty days
9 in advance of its use or implementation along with identification of
10 the statute conferring authority for that practice, policy, or
11 procedure;

12 (b) The commissioner publishes on the agency web site the
13 practice, policy, or procedure upon use or implementation along with
14 prior versions of that practice, policy, or procedure and enforcement
15 actions based upon that practice, policy, or procedure;

16 (c) Agency enforcement and application of a practice, policy, or
17 procedure applies equally to all similar products, services, and
18 licensees except as explicitly required otherwise by a law identified
19 by the commissioner; and

20 (d) The commissioner applies any new practice, policy, or
21 procedure prospectively only except as explicitly required otherwise
22 by a law identified by the commissioner.

23 (2) The commissioner may not impose a fine or suspend or revoke a
24 license for a violation of law relating to the filing, use, or
25 approval of a rate, form, or agreement by a carrier if the
26 commissioner had previously approved, waived a requirement for, or
27

1 waived enforcement against any carrier for a substantially similar
2 rate, form, or agreement in similar circumstances.

3 (3) The commissioner may not prohibit or take action against any
4 person for the negotiation of a provider or facility agreement in
5 advance of filing the agreement. The commissioner may not prohibit
6 the execution or use of a health care provider or facility agreement
7 that varies from the carrier's filed and approved agreements solely
8 with respect to terms and conditions:

9 (a) For which the commissioner has no statutory authority to
10 disapprove; or

11 (b) Required by another state or federal government agency with
12 jurisdiction over the agreement.

13 (4) In any action by the commissioner against any person for a
14 violation of law relating to the use of a rate, form, or agreement,
15 the determination of whether a material difference exists between the
16 approved and used rate, form, or agreement must be made in accordance
17 with state common law governing material modification of agreements."
18

19 Renumber the remaining section accordingly and correct any
20 internal references accordingly. Correct the title.

EFFECT: Delays the use of any rule, practice, or procedure that administers, interprets, enforces, or implements any law by the Insurance Commissioner (Commissioner) until certain criteria are met. The criteria include: Communication to all affected parties at least 30 days prior to use by the Commissioner; publication on the Commissioner's website of the rule, practice, or procedure and all previous versions of that rule, practice, or procedure and all enforcement actions taken based on that rule, practice, or procedure; enforcement applies to all similar products, services, and licensees unless explicitly provided otherwise by law; any new rule, practice, or procedure may only be provided prospectively unless explicitly provided otherwise by law.

The Commissioner may not impose a sanction related to the filing, use, or approval of a rate or contract of a carrier if the Commissioner has approved, waived a requirement, or waived enforcement against any carrier in regards to a substantially similar rate or contract in similar circumstances. The Commissioner may not prohibit any person or impose any sanction related to a provider or facility agreement prior to the filing of the agreement.

The Commissioner may not prohibit any provision in a provider or facility agreement unless the Commissioner has statutory authority to disapprove the provision. The Commissioner may not prohibit any provision in a provider or facility agreement that is required by another state or federal government agency that has jurisdiction over the agreement.

State common law regarding the material modification of contracts is the standard to be used to judge whether or not there is a material difference between a rate or contract that is approved for use by the Commissioner and a rate or contract is actually used by an insurer or carrier.

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