

**E2SSB 5215** - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 04/11/2013

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that Washington state  
4 is a provider friendly state within which to practice medicine. As  
5 part of health care reform, Washington state endeavors to establish and  
6 operate a state-based health benefits exchange wherein insurance  
7 products will be offered for sale and add potentially three hundred  
8 thousand patients to commercial insurance, and to expand access to  
9 medicaid for potentially three hundred thousand new enrollees. Such a  
10 successful and new insurance market in Washington state will require  
11 the willing participation of all categories of health care providers.  
12 The legislature further finds that principles of fair contracting apply  
13 to all contracts between health care providers and health insurance  
14 carriers offering insurance within Washington state and that fair  
15 dealings and transparency in expectations should be present in  
16 interactions between all third-party payors and health care providers.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires otherwise.

19 (1) "Health care provider" or "provider" has the same meaning as in  
20 RCW 48.43.005 and, for the purposes of this chapter, includes  
21 facilities licensed under chapter 70.41 RCW.

22 (2) "Payor" or "third-party payor" means carriers licensed under  
23 chapters 48.20, 48.21, 48.44, and 48.46 RCW, and managed health care  
24 systems as defined in RCW 74.09.522.

25 (3) "Material amendment" means an amendment to a contract between  
26 a payor and health care provider that would result in requiring a  
27 health care provider to participate in a health plan, product, or line  
28 of business with a lower fee schedule in order to continue to

1 participate in a health plan, product, or line of business with a  
2 higher fee schedule. A material amendment does not include any of the  
3 following:

4 (a) A decrease in payment or compensation resulting from a change  
5 in a fee schedule published by the payor upon which the payment or  
6 compensation is based and the date of applicability is clearly  
7 identified in the contract, compensation addendum, or fee schedule  
8 notice;

9 (b) A decrease in payment or compensation that was anticipated  
10 under the terms of the contract, if the amount and date of  
11 applicability of the decrease is clearly identified in the contract; or

12 (c) Changes unrelated to compensation so long as reasonable notice  
13 of not less than sixty days is provided.

14 NEW SECTION. **Sec. 3.** (1) A third-party payor shall provide no  
15 less than sixty days' notice to the health care provider of any  
16 proposed material amendments to a health care provider's contract with  
17 the third-party payor.

18 (2) Any material amendment to a contract must be clearly defined in  
19 a notice to the provider from the third-party payor as being a material  
20 change to the contract before the provider's notice period begins. The  
21 notice must also inform the providers that they may choose to reject  
22 the terms of the proposed material amendment through written or  
23 electronic means at any time during the notice period and that such  
24 rejection may not affect the terms of the health care provider's  
25 existing contract with the third-party payor.

26 (3) A health care provider's rejection of the material amendment  
27 does not affect the terms of the health care provider's existing  
28 contract with the third-party payor.

29 (4) A failure to comply with the terms of subsections (1), (2), and  
30 (3) of this section shall void the effectiveness of the material  
31 amendment.

32 NEW SECTION. **Sec. 4.** A payor may require a health care provider  
33 to extend the payor's medicaid rates, or some percentage above the  
34 payor's medicaid rates, that govern a health benefit program  
35 administered by a public purchaser to a commercial plan or line of  
36 business offered by a payor that is not administered by a public

1 purchaser only if the health care provider has expressly agreed in  
2 writing to the extension. For the purposes of this section,  
3 "administered by a public purchaser" does not include commercial  
4 coverage offered through the Washington health benefit exchange.  
5 Nothing in this section prohibits a payor from utilizing medicaid  
6 rates, or some percentage above medicaid rates, as a base when  
7 negotiating payment rates with a health care provider.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.130 RCW  
9 to read as follows:

10 No licensee subject to this chapter may be required to participate  
11 in any public or private third-party reimbursement program or any plans  
12 or products offered by a payor as a condition of licensure.

13 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act constitute  
14 a new chapter in Title 48 RCW."

15 Correct the title.

EFFECT: Allows a payor administering a public plan to extend its  
Medicaid rates, or some percentage above its Medicaid rates, to its  
non-Medicaid product offerings only if the contracting provider has  
expressly agreed in writing to the extension (instead of prohibiting  
such extension unless the provider has expressly agreed in writing).  
Clarifies that this restriction does not affect a payor's ability to  
use Medicaid rates, or some percentage above Medicaid rates, as a base  
when negotiating payment rates with a provider.

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