
SUBSTITUTE SENATE BILL 5434

State of Washington

63rd Legislature

2013 Regular Session

By Senate Health Care (originally sponsored by Senators Becker, Dammeier, Keiser, Harper, and Conway)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to the filing and public disclosure of health care
2 provider compensation; amending RCW 48.46.243 and 48.46.030; adding a
3 new section to chapter 48.43 RCW; and repealing RCW 48.44.070.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW
6 to read as follows:

7 (1) For the purposes of this section:

8 (a) "Carrier" means a:

9 (i) Health carrier as defined in RCW 48.43.005; and

10 (ii) Limited health care service contractor that offers limited
11 health care service as defined in RCW 48.44.035.

12 (b) "Provider" means:

13 (i) A health care provider as defined in RCW 48.43.005;

14 (ii) A participating provider as defined in RCW 48.44.010;

15 (iii) A health care facility, as defined in RCW 48.43.005; and

16 (iv) Intermediaries that have agreed in writing with a carrier to
17 provide access to providers under this subsection (1)(b) who render
18 covered services to enrollees of a carrier.

1 (c) "Provider compensation agreement" means any written agreement
2 that includes specific information about payment methodology, payment
3 rates, and other terms that determine the remuneration a carrier will
4 pay to a provider.

5 (d) "Provider contract" means a written contract between a carrier
6 and a provider for any health care services rendered to an enrollee.

7 (2) A carrier must file all provider contracts and provider
8 compensation agreements with the commissioner thirty calendar days
9 before use. When a carrier and provider negotiate a provider contract
10 or provider compensation agreement that deviates from a filed
11 agreement, the carrier must also file that specific contract or
12 agreement with the commissioner thirty calendar days before use.

13 (a) Any provider contract and related provider compensation
14 agreements not affirmatively disapproved by the commissioner are deemed
15 approved, except the commissioner may extend the approval date an
16 additional fifteen calendar days upon giving notice before the
17 expiration of the initial thirty-day period.

18 (b) Changes to previously filed and approved provider compensation
19 agreements modifying the compensation amount or related terms that help
20 determine the compensation amount must be filed and are deemed approved
21 upon filing if no other changes are made to the previously approved
22 provider contract or compensation agreement.

23 (3) The commissioner may not base a disapproval of a provider
24 compensation agreement on the amount of compensation or other financial
25 arrangements between the carrier and the provider, unless that
26 compensation amount causes the underlying health benefit plan to
27 otherwise be in violation of state or federal law. This subsection
28 does not grant the commissioner the authority to regulate provider
29 reimbursement amounts.

30 (4) The commissioner may withdraw approval of a provider contract
31 or provider compensation agreement at any time for cause.

32 (5) Provider compensation agreements are confidential and not
33 subject to public inspection under RCW 48.02.120(2), or public
34 disclosure under chapter 42.56 RCW, if filed in accordance with the
35 procedures for submitting confidential filings through the system for
36 electronic rate and form filings and the general filing instructions as
37 set forth by the commissioner. In the event the referenced filing
38 fails to comply with the filing instructions setting forth the process

1 to withhold the compensation agreement from public inspection, and the
2 carrier indicates that the compensation agreement is to be withheld
3 from public inspection, the commissioner shall reject the filing and
4 notify the carrier through the system for electronic rate and form
5 filings to amend its filing to comply with the confidentiality filing
6 instructions.

7 (6) In the event a provider contract or provider compensation
8 agreement is disapproved or withdrawn from use by the commissioner, the
9 carrier has the right to demand and receive a hearing under chapters
10 48.04 and 34.05 RCW.

11 (7) The commissioner may adopt rules to implement this section.
12

13 **Sec. 2.** RCW 48.46.243 and 2008 c 217 s 56 are each amended to read
14 as follows:

15 (1) Subject to subsection (2) of this section, every contract
16 between a health maintenance organization and its participating
17 providers of health care services shall be in writing and shall set
18 forth that in the event the health maintenance organization fails to
19 pay for health care services as set forth in the agreement, the
20 enrolled participant shall not be liable to the provider for any sums
21 owed by the health maintenance organization. Every such contract shall
22 provide that this requirement shall survive termination of the
23 contract.

24 (2) The provisions of subsection (1) of this section shall not
25 apply to emergency care from a provider who is not a participating
26 provider, to out-of-area services or, in exceptional situations
27 approved in advance by the commissioner, if the health maintenance
28 organization is unable to negotiate reasonable and cost-effective
29 participating provider contracts.

30 ~~(3)((a) Each participating provider contract form shall be filed
31 with the commissioner fifteen days before it is used.~~

32 ~~(b) Any contract form not affirmatively disapproved within fifteen
33 days of filing shall be deemed approved, except that the commissioner
34 may extend the approval period an additional fifteen days upon giving
35 notice before the expiration of the initial fifteen day period. The
36 commissioner may approve such a contract form for immediate use at any
37 time. Approval may be subsequently withdrawn for cause.~~

1 ~~(c) Subject to the right of the health maintenance organization to~~
2 ~~demand and receive a hearing under chapters 48.04 and 34.05 RCW, the~~
3 ~~commissioner may disapprove such a contract form if it is in any~~
4 ~~respect in violation of this chapter or if it fails to conform to~~
5 ~~minimum provisions or standards required by the commissioner by rule~~
6 ~~under chapter 34.05 RCW.~~

7 (4)) No participating provider, or insurance producer, trustee, or
8 assignee thereof, may maintain an action against an enrolled
9 participant to collect sums owed by the health maintenance
10 organization.

11 **Sec. 3.** RCW 48.46.030 and 2012 c 211 s 23 are each amended to read
12 as follows:

13 Any corporation, cooperative group, partnership, individual,
14 association, or groups of health professionals licensed by the state of
15 Washington, public hospital district, or public institutions of higher
16 education shall be entitled to a certificate of registration from the
17 insurance commissioner as a health maintenance organization if it:

18 (1) Provides comprehensive health care services to enrolled
19 participants on a group practice per capita prepayment basis or on a
20 prepaid individual practice plan and provides such health services
21 either directly or through arrangements with institutions, entities,
22 and persons which its enrolled population might reasonably require as
23 determined by the health maintenance organization in order to be
24 maintained in good health; and

25 (2) Is governed by a board elected by enrolled participants, or
26 otherwise provides its enrolled participants with a meaningful role in
27 policy making procedures of such organization, as defined in RCW
28 48.46.020(18)((-)) and 48.46.070; and

29 (3) Affords enrolled participants with a meaningful appeal
30 procedure aimed at settlement of disputes between such persons and such
31 health maintenance organization, as defined in RCW 48.46.020(17) and
32 48.46.100; and

33 (4) Provides enrolled participants, or makes available for
34 inspection at least annually, financial statements pertaining to health
35 maintenance agreements, disclosing income and expenses, assets and
36 liabilities, and the bases for proposed rate adjustments for health

1 maintenance agreements relating to its activity as a health maintenance
2 organization; and

3 (5) Demonstrates to the satisfaction of the commissioner that its
4 facilities and personnel are reasonably adequate to provide
5 comprehensive health care services to enrolled participants and that it
6 is financially capable of providing such members with, or has made
7 adequate contractual arrangements through insurance or otherwise to
8 provide such members with, such health services; and

9 (6) Substantially complies with administrative rules and
10 regulations of the commissioner for purposes of this chapter; and

11 (7) Submits an application for a certificate of registration which
12 shall be verified by an officer or authorized representative of the
13 applicant, being in form as the commissioner prescribes, and setting
14 forth:

15 (a) A copy of the basic organizational document, if any, of the
16 applicant, such as the articles of incorporation, articles of
17 association, partnership agreement, trust agreement, or other
18 applicable documents, and all amendments thereto;

19 (b) A copy of the bylaws, rules and regulations, or similar
20 documents, if any, which regulate the conduct of the internal affairs
21 of the applicant, and all amendments thereto;

22 (c) A list of the names, addresses, members of the board of
23 directors, board of trustees, executive committee, or other governing
24 board or committee and the principal officers, partners, or members;

25 (d) A full and complete disclosure of any financial interests held
26 by any officer, or director in any provider associated with the
27 applicant or any provider of the applicant;

28 (e) A description of the health maintenance organization, its
29 facilities and its personnel, and the applicant's most recent financial
30 statement showing such organization's assets, liabilities, income, and
31 other sources of financial support;

32 (f) A description of the geographic areas and the population groups
33 to be served and the size and composition of the anticipated enrollee
34 population;

35 (g) A copy of each type of health maintenance agreement to be
36 issued to enrolled participants;

37 (h) A schedule of all proposed rates of reimbursement to

1 contracting health care facilities or providers, if any, and a schedule
2 of the proposed charges for enrollee coverage for health care services,
3 accompanied by data relevant to the formulation of such schedules;

4 (i) A description of the proposed method and schedule for
5 soliciting enrollment in the applicant health maintenance organization
6 and the basis of compensation for such solicitation services;

7 (j) A copy of the solicitation document to be distributed to all
8 prospective enrolled participants in connection with any solicitation;

9 (k) A financial projection which sets forth the anticipated results
10 during the initial two years of operation of such organization,
11 accompanied by a summary of the assumptions and relevant data upon
12 which the projection is based. The projection should include the
13 projected expenses, enrollment trends, income, enrollee utilization
14 patterns, and sources of working capital;

15 (l) A detailed description of the procedures and programs to be
16 implemented to assure that the health care services delivered to
17 enrolled participants will be of professional quality;

18 (m) A detailed description of procedures to be implemented to meet
19 the requirements to protect against insolvency in RCW 48.46.245;

20 (n) Documentation that the health maintenance organization has an
21 initial net worth of one million dollars and shall thereafter maintain
22 the minimum net worth required under RCW 48.46.235; and

23 (o) Such other information as the commissioner shall require by
24 rule or regulation which is reasonably necessary to carry out the
25 provisions of this section.

26 A health maintenance organization shall, unless otherwise provided
27 for in this chapter, file a notice describing any modification of any
28 of the information required by subsection (7) of this section. Such
29 notice shall be filed with the commissioner. With respect to provider
30 compensation; however, such notice shall be filed in compliance with
31 the requirements regarding provider compensation filing in chapter
32 48.43 RCW.

33 NEW SECTION. **Sec. 4.** RCW 48.44.070 (Contracts to be filed with
34 commissioner) and 1990 c 120 s 9, 1965 c 87 s 2, & 1961 c 197 s 4 are
35 each repealed.

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