
SENATE BILL 5434

State of Washington 63rd Legislature 2013 Regular Session

By Senators Becker, Dammeier, Keiser, Harper, and Conway

Read first time 01/30/13. Referred to Committee on Health Care .

1 AN ACT Relating to the filing and public disclosure of health care
2 provider compensation; amending RCW 48.46.243; adding a new section to
3 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 NEW SECTION. **Sec. 3.** RCW 48.44.070 (Contracts to be filed with
12 commissioner) and 1990 c 120 s 9, 1965 c 87 s 2, & 1961 c 197 s 4 are
13 each repealed.

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