

SENATE BILL REPORT

SB 5474

As of January 22, 2016

Title: An act relating to enhancing the relationship between a health insurer and a contracting health care provider.

Brief Description: Concerning the relationship between a health insurer and a contracting health care provider.

Sponsors: Senators Rivers, Conway, Angel and Frockt.

Brief History:

Committee Activity: Health Care: 1/21/16.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: Health insurance carriers or issuers enter into contracts with health care providers under which the providers agree to accept a specified reimbursement rate for their services. A health carrier must file all provider contracts and provider compensation agreements with the Insurance Commissioner 30 days before use.

A health carrier must provide at least 60 days' notice to a health care provider of any proposed material amendments to the provider's contract. A material amendment is an amendment to a contract that would result in requiring the provider to participate in a health plan, product, or line of business with a lower fee schedule in order to continue to participate in a health plan, product, or line of business with a higher fee schedule. During the 60 day period, the provider may reject the material amendment without affecting the terms of the existing contract. The material amendment must be clearly defined in a notice to the provider before the notice period begins. The notice must inform the provider that the provider may choose to reject the terms of the material amendment through written or electronic means at any time during the notice period and that such rejection will not affect the terms of the existing contract. The health carrier's failure to comply with the notice requirements voids the effectiveness of the material amendment.

Summary of Bill: The bill as referred to committee not considered.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Proposed First Substitute): A contract or participating provider agreement between an insurer and a vision care provider may not:

- prohibit an enrollee from contracting at any time to obtain non-covered vision materials or services. This requirement does not bind a vision care provider or insurer for any non-covered vision materials or services, nor does it prohibit a vision care provider from choosing to opt-in to a materials discount program provided that the insurer may not use promotional devices to steer patients to vision care providers who opt-in to such a program;
- require a vision care provider to participate with or be credentialed by another insurer or health benefit plan as a condition to joining the provider panels, or require a provider to participate in all available vision care plans offered by an insurer or vision care plan as a condition of participating; or
- require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the insurer has a financial interest.

Reimbursement amounts paid by an insurer for covered vision materials or services must be reasonable in relation to the usual and customary rate for those materials or services. The insurer may not provide nominal reimbursement for materials or services in order to claim the material or services are covered.

An insurer must provide no less than 60 days notice to the provider of any proposed changes to a vision care provider's contract, which the provider may accept or reject at any time within the notice period. Rejection of the amendment does not affect the terms of the existing contract. If the notice of the proposed amendment is delivered in writing to the provider via certified mail, the amendment may be considered accepted in the absence of written notice of rejection within the 60 day period.

These requirements apply to all contracts, addendum and certificates issued or renewed, effective June 30, 2016. No vision care plan contract may be longer than two years from the date it was first signed.

The Insurance Commissioner must respond to all complaints alleging violation of this section. The practices of this chapter fall under the consumer protection act and a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act. Any person affected by a violation of this subchapter may bring action in a court of competent jurisdiction for injunctive relief, and upon prevailing shall recover monetary damages of no more than \$1,000 for each day found to be in violation plus attorney's fees and costs

Participating provider agreements between an insurer and a health care provider may not be of indefinite length, but must expire after an initial term followed by one or more finite renewal periods.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: It is important to allow eye care businesses to operate fully as businesses with a level playing field. Consumers buying vision care do not assume the contract limits the materials or types of care they can access. But contracts are limiting provider and patient choice. Providers should have the right to say no to certain contract requirements and be able to look at the plan design and evaluate if the plan threatens their other business instead of being forced to sign p for a panel that includes all other plan offerings. I have been through insurance contracting nightmare with the medical carrier and the vision care plan with contract exclusions in the vision care plan that governed the medical services I was providing a patient with a traumatic brain injury. The separate discount vision plan should not be able to dictate other benefits. Insurance plans are forcing us to purchase product through the law owned by them. I should not be forced to use unsatisfactory services that negatively impact by patients and restrict patient freedom to choose. I should not be forced to participate in discount plans and be forced into an ethical dilemma to participate or abandon by patients.

CON: Some progress was made on this bill last year but this version lost most of that progress. This bill fundamentally misunderstands the contracting provisions. It terminates most of our contracts that are evergreen contracts and requires needless updates which will cause churn and instability in the networks. This creates new standards for all contracts with the contract change notification where we already have language on material contract changes that covers the needs. It will lead to turmoil, administrative burden, and network instability. There is no reason to add to the administrative cost. The addition of the consumer protection act is an overreach and unnecessary where there is already a regulator that has some oversight. The Commissioner is the functional regulator over insurance and violations are better reviewed there than using the remedy for consumers. The private rights of action is also inappropriate with the presence of a regulator already. the Commissioner is capable of dealing with fines and penalties. The best way for individuals to get good care is to get the provider and retail connection actively with the provider, which allows price and quality choices for consumers. We give local retailers mark up options with the option to retain the business rather than driver consumers to the big box stores. There is a significant retail component in this business.

Persons Testifying: PRO: Senator Rivers, Prime Sponsor; Brad Tower, Optometric Physicians of Washington; Dr. Linda Medeski, Downtown Vision Center; Dr. Aaron (Remote testimony) Banta, Center Vision & CL Clinic.

CON: Chris Bandoli, Regence BlueShield; Sheela Tallman, Premera Blue Cross; Mel Sorenson, America's Health Insurance Plans; Property Casualty Insurers Association of America; Bill Stauffacher, National Association of Vision Care Plans.

Persons Signed In To Testify But Not Testifying: No one.