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HOUSE BILL 1002

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State of Washington

64th Legislature

2015 Regular Session

By Representative DeBolt

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1 AN ACT Relating to prohibiting unfair and deceptive dental  
2 insurance practices; amending RCW 48.44.035; adding new sections to  
3 chapter 48.44 RCW; creating a new section; and providing an effective  
4 date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.44  
7 RCW to read as follows:

8 (1)(a) A limited health care service contractor that offers  
9 coverage for dental care services shall permit a treating dentist, in  
10 consultation with the covered person, to make all decisions on dental  
11 services provided to the covered person, rather than making such  
12 decisions through contracts or agreements between the dentist and the  
13 limited health care service contractor.

14 (b) Consistent with (a) of this subsection, the limited health  
15 care service contractor may not:

16 (i) Deny coverage for services provided by the dentist based on  
17 an independent diagnosis made by the limited health care service  
18 contractor or an employee or agent of the limited health care service  
19 contractor;

1 (ii) Require X-rays that are not clinically necessary or prohibit  
2 intraoral photos if such photos are the more appropriate standard of  
3 care based on standards of accepted dental practice;

4 (iii) Deny coverage for clinically necessary X-rays on the basis  
5 that the X-rays were performed on the same day that check-up X-rays  
6 were performed; or

7 (iv) Inform the covered person that he or she was misdiagnosed by  
8 his or her dentist.

9 (c) The decisions made by the dentist, in consultation with the  
10 covered person, under (a) of this subsection must be based on  
11 accepted dental practices.

12 (2)(a) A limited health care service contractor that offers  
13 coverage for dental care services shall reimburse nonparticipating  
14 providers for covered dental services provided to a covered person.

15 (b) The reimbursement amount paid to nonparticipating providers  
16 under (a) of this subsection must be equal to the amount paid to  
17 participating providers for the same service.

18 (c) If a limited health care service contractor fails to  
19 reimburse a nonparticipating provider as required in (a) of this  
20 subsection, it shall reimburse the covered person for the service in  
21 question.

22 (d) Nothing in this subsection (2) precludes the limited health  
23 care service contractor from continuing to negotiate lower overall  
24 rates with participating providers.

25 (3) A limited health care service contractor that offers coverage  
26 for dental care services may not modify the reimbursement rates paid  
27 to a contracting dentist during the term of the contract, unless the  
28 contracting dentist agrees to the modification in writing.

29 (4) A limited health care service contractor that provides  
30 coverage for dental care services may not deny coverage for treatment  
31 of emergency dental conditions on the basis that the services were  
32 provided on the same day the covered person was examined and  
33 diagnosed for the emergency dental condition.

34 (5) A limited health care service contractor that provides  
35 coverage for dental care services shall maintain a loss ratio equal  
36 to or greater than the medical loss ratio required for health plans  
37 offered to individuals and small groups.

38 (6) Prior to entering a contract with a dentist, a limited health  
39 care service contractor that provides coverage for dental care  
40 services shall, upon request, provide the dentist with all of the

1 terms and conditions of the contract including, but not limited to,  
2 any manuals and rules by which the dentist must abide pursuant to the  
3 terms of the contract.

4 (7) A limited health care service contractor that provides  
5 coverage for dental care services may not terminate a contract with a  
6 participating dentist, or impose any penalties upon the dentist,  
7 based solely upon the dentist's efforts to enforce his or her rights,  
8 or the rights of his or her patient, under this section.

9 (8) For purposes of this section:

10 (a) "Emergency dental condition" means a dental condition  
11 manifesting itself by acute symptoms of sufficient severity,  
12 including severe pain such that a prudent layperson, who possesses an  
13 average knowledge of health and dentistry, could reasonably expect  
14 the absence of immediate dental attention to result in:

15 (i) Placing the health of the individual, or with respect to a  
16 pregnant woman the health of the woman or her unborn child, in  
17 serious jeopardy;

18 (ii) Serious impairment to bodily functions; or

19 (iii) Serious dysfunction of any bodily organ or part.

20 (b) "Limited health care service contractor" has the same meaning  
21 as in RCW 48.44.035.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.44  
23 RCW to read as follows:

24 A limited health care service contractor that offers coverage for  
25 dental care services is subject to the same guaranteed issue,  
26 guaranteed renewability of coverage, and nondiscrimination standards  
27 applicable to carriers offering coverage in the nongrandfathered  
28 individual and small group market under 42 U.S.C. Sec. 300gg-1, 42  
29 U.S.C. Sec. 300gg-2, and 42 U.S.C. Sec. 300gg-4, as those sections  
30 exist on the effective date of this section.

31 **Sec. 3.** RCW 48.44.035 and 1997 c 212 s 1 are each amended to  
32 read as follows:

33 (1) For purposes of this section (~~(only)~~) and sections 1 and 2 of  
34 this act, "limited health care service" means dental care services,  
35 vision care services, mental health services, chemical dependency  
36 services, pharmaceutical services, podiatric care services, and such  
37 other services as may be determined by the commissioner to be limited  
38 health services, but does not include hospital, medical, surgical,

1 emergency, or out-of-area services except as those services are  
2 provided incidentally to the limited health services set forth in  
3 this subsection.

4 (2) For purposes of this section (~~(only)~~) and sections 1 and 2 of  
5 this act, a "limited health care service contractor" means a health  
6 care service contractor that offers one and only one limited health  
7 care service.

8 (3) Except as provided in subsection (4) of this section, every  
9 limited health care service contractor must have and maintain a  
10 minimum net worth of three hundred thousand dollars.

11 (4) A limited health care service contractor registered before  
12 July 27, 1997, that, on July 27, 1997, has a minimum net worth equal  
13 to or greater than that required by subsection (3) of this section  
14 must continue to have and maintain the minimum net worth required by  
15 subsection (3) of this section. A limited health care service  
16 contractor registered before July 27, 1997, that, on July 27, 1997,  
17 does not have the minimum net worth required by subsection (3) of  
18 this section must have and maintain a minimum net worth of:

19 (a) Thirty-five percent of the amount required by subsection (3)  
20 of this section by December 31, 1997;

21 (b) Seventy percent of the amount required by subsection (3) of  
22 this section by December 31, 1998; and

23 (c) One hundred percent of the amount required by subsection (3)  
24 of this section by December 31, 1999.

25 (5) For all limited health care service contractors that have had  
26 a certificate of registration for less than three years, their  
27 uncovered expenditures shall be either insured or guaranteed by a  
28 foreign or domestic carrier admitted in the state of Washington or by  
29 another carrier acceptable to the commissioner. All such contractors  
30 shall also deposit with the commissioner one-half of one percent of  
31 their projected premium for the next year in cash, approved surety  
32 bond, securities, or other form acceptable to the commissioner.

33 (6) For all limited health care service contractors that have had  
34 a certificate of registration for three years or more, their  
35 uncovered expenditures shall be assured by depositing with the  
36 insurance commissioner twenty-five percent of their last year's  
37 uncovered expenditures as reported to the commissioner and adjusted  
38 to reflect any anticipated increases or decreases during the ensuing  
39 year plus an amount for unearned prepayments; in cash, approved  
40 surety bond, securities, or other form acceptable to the

1 commissioner. Compliance with subsection (5) of this section shall  
2 also constitute compliance with this requirement.

3 (7) Limited health service contractors need not comply with RCW  
4 48.44.030 or 48.44.037.

5 NEW SECTION. **Sec. 4.** The insurance commissioner may adopt any  
6 rules necessary to implement this act.

7 NEW SECTION. **Sec. 5.** Section 1 of this act takes effect January  
8 1, 2017.

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