
Health Care & Wellness Committee

HB 1160

Brief Description: Concerning health provider contracts.

Sponsors: Representatives Cody, Macri and Pollet.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Regulates health carrier contracts with hospitals and providers.
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Hearing Date: 1/21/21

Staff: Kim Weidenaar (786-7120).

Background:

Provider Contracts and Provider Compensation Agreements.

Health insurance carriers must file all provider contracts and provider compensation agreements with the Office of the Insurance Commissioner (OIC) 30 calendar days before use. When a carrier and provider negotiate an agreement that deviates from a filed agreement, the specific contract must be filed 30 days prior to use. Any provider compensation agreements not affirmatively disapproved by the OIC are deemed approved, except the OIC may extend the approval date an additional 15 days with notice before the initial 30-day period expires. Changes to the previously filed agreements that modify the compensation or related terms must be filed and are deemed approved upon filing if no other changes are made to the previously approved agreement. The OIC may not base a disapproval of the agreement on the amount of the compensation or other financial arrangements between the carrier and provider, unless the compensation amount causes the underlying health benefit plan to be in violation of state or federal law.

Provider compensation agreements are confidential and not subject to public inspection or public

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disclosure if they are filed following the procedures for submitting confidential filings in the electronic rate and form filings. If the filing instructions are not followed and the carrier indicates that the compensation agreement will be withheld from public inspection, the OIC must reject the filing and notify the carrier to amend the filing in order to comply with the confidentiality instructions.

Consumer Protection Act.

Under the Consumer Protection Act (CPA), unfair or deceptive acts or practices in trade or commerce are unlawful. The CPA provides that any person injured in his or her business or property through such practices may bring a civil action to recover actual damages sustained and costs of the suit, including reasonable attorneys' fees. The Attorney General may bring an action under the CPA to restrain and prevent unfair and deceptive acts and practices.

Summary of Bill:

Beginning January 1, 2022, a contract between a hospital or affiliate hospital and a health carrier may not, directly or indirectly:

- set provider compensation agreements or other terms for nonparticipating affiliates of the hospital;
- require a health carrier to contract with the hospital's affiliates;
- require health insurers to place a hospital or affiliate in an enrollee cost-sharing tier that reflects the lowest or lower enrollee cost-sharing amounts; or
- require health carriers to keep the contracts payment rates confidential from any existing or potential payor that is or may become financially responsible for the payments, though the these communications may be subject to a reasonable nondisclosure agreement.

The restriction on prohibiting a contract from requiring a health carrier to contract with one or more of the hospital's affiliates does not prohibit a provision requiring the health carrier to contract with the medical groups that the hospital's medical staff is affiliated or from the health carrier voluntarily agreeing to contract with affiliates. If the health carrier voluntarily agrees to contract with hospital affiliates, the health carrier must file an attestation with the Office of the Insurance Commissioner within 30 days of the contract becoming effective or renewed.

Beginning January 1, 2022, health provider contracts between a health carrier and a provider may not contain a provision that prohibits disclosure of health care service claims data to employers providing the coverage. Any disclosure of claims data must comply with state and federal privacy laws. Health provider contracts that violate this provision are an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of the consumer protection act.

"Provider compensation agreement" is defined as any written agreement that includes specific information about payment methodology, payment rates, and other terms that determine the remuneration a carrier will pay to a provider. "Affiliate" is a person who directly or indirectly through intermediaries, controls or is controlled by, or is under common control with, another

specified person. "Control" is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, membership rights, by contract, or otherwise.

"Provider" means:

- a health care provider that is regulated under Title 18 or by in-home care agencies to practice health or health-related services and the employees or agents of a health care provider;
- a participating provider, who is a provider, who has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services;
- a hospital, hospice, rural health care facility, psychiatric hospital, nursing home, community mental health center, kidney disease treatment center, ambulatory diagnostic, treatment, or surgical facilities, home health agencies, and other facilities as required by federal law; and
- intermediaries that have agreed in writing with a health carrier to provide access to providers who render covered services to the enrollees of a health carrier.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.