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**SENATE BILL 6097**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Cleveland, Rivers, Hasegawa, Kuderer, Salomon, and Wellman

AN ACT Relating to clarifying requirements for fairness and transparency in network contracting for dental services by carriers offering stand-alone dental plans; reenacting and amending RCW 48.39.005; and adding a new section to chapter 48.39 RCW.

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

**Sec.**  RCW 48.39.005 and 2013 c 293 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease. "Dental services" do not include services delivered by a provider that are billed as medical expenses under a health benefit plan.

(2) "Dental services provider" means a health care provider that provides dental services.

(3) "Dental services provider contract" means a provider contract as defined in RCW 48.43.730 between a payor offering a stand-alone dental plan and a dental services provider that specifies the rights and responsibilities of the payor and provides for the delivery and payment of dental services to an enrollee.

(4) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005 and, for the purposes of this chapter, includes facilities licensed under chapter 70.41 RCW.

((~~(2)~~)) (5) "Material amendment" means an amendment to a contract between a payor and health care provider that would result in requiring a health care 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. A material amendment does not include any of the following:

(a) A decrease in payment or compensation resulting from a change in a fee schedule published by the payor upon which the payment or compensation is based and the date of applicability is clearly identified in the contract, compensation addendum, or fee schedule notice;

(b) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract; or

(c) Changes unrelated to compensation so long as reasonable notice of not less than ((~~sixty~~)) 60 days is provided.

((~~(3)~~)) (6) "Material dental services amendment" means an amendment or modification to a contract between a payor offering a stand-alone dental plan and a dental services provider that would result in requiring a dental services provider to participate in a new health plan, product, or line of business regardless of whether or not there are changes in payment or compensation.

(7) "Payor" or "third‑party payor" means carriers licensed under chapters 48.20, 48.21, 48.44, and 48.46 RCW, and ((~~managed health care systems as defined in RCW 74.09.522.~~)) managed care organizations as defined in RCW 74.09.010.

(8) "Stand-alone dental plan" means coverage for a set of benefits limited to oral care including, but not necessarily limited to, pediatric oral health.

(9) "Same brand licensee program" means a regional or national association of payors offering stand-alone dental plans that entitles payors meeting certain standards to license the use of a regional or national brand name.

(10) "Third party" means a person or entity that enters into a contract with a payor offering a stand-alone dental plan or an intermediary to gain access to the dental services or provider compensation agreements of dental services providers. "Third party" does not include an employer or group for whom a payor or intermediary provides administrative services.

NEW SECTION. **Sec.**  A new section is added to chapter 48.39 RCW to read as follows:

(1) A payor offering a stand-alone dental plan shall permit a dental services provider to choose not to:

(a) Participate in third-party access to a dental services provider contract;

(b) Accept a proposed material dental services amendment; and

(c) Enter into a contract directly with a payor offering a stand-alone dental plan that acquires a dental services provider contract.

(2) When initially contracting with a dental services provider, a payor offering a stand-alone dental plan shall accept a dental services provider who otherwise meets the legitimate selection criteria of the payor even if the dental services provider does not accept provisions in the provider contract that would permit a third party access to the dental services provider contract or provider compensation agreement, or to the dental services provider's dental services.

(3) A payor offering a stand-alone dental plan shall provide no less than 60 days' notice to a dental services provider of any proposed material dental services amendment to the dental services provider contract with the payor.

(4) Any material dental services amendment to a dental services provider contract must be clearly defined in a notice to the dental services provider from the payor offering a stand-alone dental plan as being a material change to the contract and must describe the third party being granted access to the dental services provider's dental services or provider compensation agreement, before the provider's notice period begins. The notice also must inform the dental services provider that the proposed material dental services amendment will not be effective unless and until the dental services provider affirmatively agrees through written or electronic means to accept the material dental services amendment.

(5) A material dental services amendment is not effective, regardless of the notice period, unless the dental services provider affirmatively agrees through written or electronic means to accept such material dental services amendment.

(6) A dental services provider's rejection or nonacceptance of a material dental services amendment does not affect the terms of the dental services provider's existing dental services contract with the payor offering a stand-alone dental plan. If a dental services provider does not accept a material dental services amendment, the payor offering a stand-alone dental plan may not cancel or otherwise end the existing provider contract with the dental services provider.

(7) A failure to comply with the terms of subsections (3) through (6) of this section shall void the effectiveness of the material dental services amendment.

(8) Subsections (1) through (7) of this section do not apply to a dental services provider contract if:

(a) Access to a dental services provider contract or provider compensation agreement is granted to a payor operating in accordance with the same brand licensee program as the payor offering the stand-alone dental plan, or a payor that is an affiliate, as defined in RCW 48.31B.005, of the payor offering stand-alone dental plans. A list of payors operating under the same brand licensee program or as affiliates must be made available to a dental services provider on the website of the payor and must be updated at least once every 90 days; or

(b) The dental services provider contract is for dental services provided to beneficiaries of state-sponsored health programs such as medicaid and the children's health insurance program.

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