

1 AN ACT concerning health care service contracts.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by
5 adding Article XIXE as follows:

6 (215 ILCS 5/Art. XIXE heading new)

7 HEALTH CARE SERVICES CONTRACTING

8 (215 ILCS 5/351E-1 new)

9 Sec. 351E-1. Short title. This Article may be cited as
10 the Fairness in Health Care Services Contracting Law.

11 (215 ILCS 5/351E-5 new)

12 Sec. 351E-5. Purpose. The purpose of this Article is to
13 provide reasonable standardization and simplification of
14 terms and conditions of individual or group health care
15 professional or health care provider service contracts with a
16 company to facilitate understanding and comparisons and to
17 eliminate provisions contained in individual or group service
18 contracts that may be unfair, deceptive, misleading, or
19 unreasonably confusing in connection with the administrative
20 requirements or services covered and with reimbursement or
21 payment for those services.

22 (215 ILCS 5/351E-10 new)

23 Sec. 351E-10. Definitions.

24 "Company" means a company that establishes, operates, or
25 maintains a network, panel, or group of health care
26 professionals or health care providers that have entered
27 into an agreement or contract with the company to provide
28 health care services.

1 "Contract" means any written agreement for the provision
2 of health care services.

3 "Health care professional" means a physician, dentist,
4 podiatric physician, nurse, optometrist, physical therapist,
5 clinical psychologist, pharmacist, or other individual, or
6 group, appropriately licensed to provide health care
7 services.

8 "Health care provider" means a hospital, ambulatory
9 surgical treatment center, pharmacy, long term care facility,
10 or other facility or group, that is licensed or otherwise
11 authorized to deliver health care services. "Health care
12 provider" also includes independent practice associations and
13 physician-hospital organizations.

14 "Health care services" means any services included in
15 furnishing to any individual medical care and
16 hospitalization incident to the furnishing of medical care,
17 as well as furnishing to any individual any other services
18 for the purpose of preventing, alleviating, curing, or
19 healing human illness, condition, or injury, including home
20 health and pharmaceutical services and products.

21 "Person" means an individual, group, corporation,
22 association, partnership, limited liability company, sole
23 proprietorship, or any other legal entity.

24 "Physician" means a person licensed under the Medical
25 Practice Act of 1987.

26 (215 ILCS 5/351E-15 new)

27 Sec. 351E-15. Unfair, misleading, or deceptive
28 contracting acts or practices.

29 (a) Contracts with a company for the provision of health
30 care services shall fully and fairly disclose the terms and
31 conditions of the contracts. Unfair, misleading, or
32 deceptive contracting acts or practices are unlawful.

33 (b) A contract term, condition, or policy, either formal

1 or informal, may not mandate or require a health care
2 professional or health care provider, as a condition of
3 participation, as a condition of higher reimbursement, or as
4 a condition of continuation of participation on a
5 professional or provider panel for one plan or contract of
6 the company, to also serve on another professional or
7 provider panel or accept reimbursement for another plan or
8 contract of the company.

9 (c) A contract term, condition, or policy, either formal
10 or informal, may not mandate or require health care
11 professionals or health care providers to automatically
12 accept from the company any payment amounts for services
13 agreed to in contract with any other companies or for other
14 than those payment amounts stated in the contract between the
15 company and the health care professional or health care
16 provider.

17 (d) A contract term, or condition, or policy, either
18 formal or informal, may not reduce or attempt to reduce
19 payment to a health care professional or health care provider
20 for services provided using an amount, discount, or payment
21 reduction formula or methodology that the company and the
22 professional or provider have not directly and specifically
23 agreed upon and stated in the written contract, signed by the
24 company and the health care professional or health care
25 provider, as applying to the service in question. The
26 contract shall specify the payment amount for each covered
27 service. For each claim billed to the company by a health
28 care professional or health care provider, the company shall
29 provide a payment statement to the health care professional
30 or health care provider that identifies the disposition of
31 each claim, including the contracted payment rates and the
32 actual payment for the services billed, if any, the reason
33 for any payment reduction to the claim submitted, and the
34 reason for denial of any claim.

1 (e) A contract term, condition, or policy, either formal
2 or informal, may not authorize a company or health care
3 professional or health care provider to unilaterally amend
4 any term or condition of the agreement. Any unilateral
5 change in payment, policy, or practice is void. Changes to a
6 contract must be in writing and approved by all parties to
7 the contract.

8 (f) A contract term, condition, or policy, either
9 formal or informal, may not authorize a company to
10 unilaterally offset or otherwise deduct or change in any way
11 payment amounts to a professional or provider to reconcile
12 accounts. A requested offset must include a written
13 explanation of the proposed offset, the details concerning
14 the reasons for the offset, and an explanation of the appeal
15 process. An offset is only permissible if agreed to by the
16 professional or provider in writing or after the exhaustion
17 of an appeal process.

18 (g) A contract term, condition, or policy, either formal
19 or informal, may not authorize or result in the unilateral
20 alteration of a service code (current procedural terminology
21 (CPT), current dental terminology (CDT), ICD-9-CM, or other
22 system) submitted by the health care professional or health
23 care provider without prior notification, consultation, and
24 agreement.

25 (h) A contract term, condition, or policy, either formal
26 or informal, may not be unilateral concerning termination,
27 indemnification, or arbitration. These provisions shall all
28 apply equally to both the company and health care
29 professional or health care provider.

30 (i) A contract term, condition, or policy, either formal
31 or informal, may not fail to include and fully honor the
32 required provisions in Section 351E-25.

1 Sec. 351E-20. Fairness in contracting procedures. A
 2 company shall provide a complete copy of the proposed
 3 contract complete with all attachments and exhibits
 4 including, but not limited to, service code standards at
 5 least 30 days before the deadline for signing a contract. A
 6 company may not require signature of a contract without all
 7 the attachments and exhibits included.

8 (215 ILCS 5/351E-25 new)

9 Sec. 351E-25. Required contract terms and conditions.
 10 Company health care professional and health care provider
 11 contracts for the provision of health care services shall at
 12 a minimum including all of the following provisions:

13 (1) "Medically necessary" and "medical necessity"
 14 means health care services that a prudent health care
 15 professional or health care provider would provide to a
 16 patient for the purpose of preventing, diagnosing, or
 17 treating an illness, injury, disease, or its symptoms in
 18 a manner that is (a) in accordance with generally
 19 accepted standards of professional practice; (b)
 20 clinically appropriate in terms of type, frequency,
 21 extent, site, and duration; and (c) not primarily for the
 22 convenience of the patient, health care professional, or
 23 health care provider."

24 (2) "The company is directly responsible for the
 25 payment to the health care professional or health care
 26 provider for covered services provided under this
 27 contract. Under no conditions shall the company make the
 28 negotiated rates herein described available to any party
 29 other than the company, unless specially agreed to in
 30 writing by the health care professional or health care
 31 provider in a separate distinct agreement."

32 (3) "Nothing in this contract shall be construed to
 33 require health care professional or health care provider

1 to participate in all of company's plans as a condition
2 of participating in any individual plan or plans. "Plan"
3 means an individual set of health service delivery and
4 compensation procedures offered by the company, or
5 administered by the company, on behalf of a payor for the
6 benefit of enrollees, and all the terms, conditions,
7 limitations, exclusions, benefits, rights, and
8 obligations thereof to which company and enrollees are
9 subject."

10 (4) "Billing for Covered Services. A health care
11 professional or health care provider shall submit a claim
12 to company and, in the event payment is required under
13 the terms of this contract, company shall pay health care
14 professional or health care provider for covered services
15 rendered to enrollees or insureds in accordance with the
16 terms of this contract. A health care professional or
17 health care provider shall arrange for all initial claims
18 for covered services to be submitted to company within 6
19 months and any final claim should be submitted within one
20 year after the date services were rendered. The company
21 shall notify the health care professional or health care
22 provider within 30 days of any reasons the bills cannot
23 be processed. A health care professional or health care
24 provider shall submit claims electronically or on a
25 billing form in accordance with Section 143.31 of the
26 Illinois Insurance Code."

27 (5) "Coding for Bills Submitted. The company
28 hereby agrees that claims submitted for covered services
29 rendered by the health care professional or health care
30 provider shall be presumed to be coded correctly. The
31 company may rebut this presumption with evidence that a
32 claim fails to satisfy the standards set forth for the
33 billing code or in this contract. If any exist, this
34 contract shall include a detailed description of

1 company's coding standards and requirements, including,
2 but not limited to, the rules on modifiers, multiple
3 surgeries, evaluation and management, and bundling
4 policies such as edits, including "correct coding"
5 initiatives. The company may not adjust the billing
6 codes submitted by the health care professional or health
7 care provider on a claim without first requesting
8 additional documentation to satisfy the coding standards
9 described in this contract. The company must provide
10 adequate notice if it wishes to adjust a code and must
11 allow sufficient time for the health care professional or
12 health care provider to submit additional documentation
13 or explanation. The health care professional or health
14 care provider has the right to appeal any adverse
15 decision regarding the payment of claims based upon the
16 level of coding with rights and duties as set forth in
17 this contract. If the company reduces payment of a claim
18 in contravention of this section, the company is
19 obligated to reimburse the health care professional or
20 health care provider for the full amount of billed
21 charges for the claim.".

22 (6) "Noncovered services. The company hereby
23 acknowledges that all health care professionals and
24 health care providers may bill and collect payments for
25 noncovered services from enrollees or patients.".

26 (7) "Recoupment. Company attempts to recoup any
27 reimbursements shall be limited to 6 months after the
28 reimbursement has been paid. Any such recoupment efforts
29 must provide detailed explanation of the need for
30 reimbursement including a line by line statement of the
31 patient payments being recouped by date of service and
32 service code.".

1 Sec. 351E-30. Rulemaking.

2 (a) The Director shall issue such rules as he or she
3 shall deem necessary or desirable to establish specific
4 standards, including standards of full and fair disclosure
5 that sets forth the form and content of contracts in rules.

6 (b) The Director may issue rules that specify prohibited
7 contractual terms or conditions or policies not otherwise
8 specifically authorized by statute that in the opinion of the
9 Director are unjust, unfair, or misleading.

10 (215 ILCS 5/351E-35 new)

11 Sec. 351E-35. Statement of charges.

12 (a) Whenever the Director finds that any company doing
13 business in this State is engaging in any unfair or improper
14 practice and that a proceeding under this Code would be in
15 the public interest, he or she shall issue and serve upon the
16 company a statement of the charges and a notice of hearing
17 pursuant to Article XXIV. The notice shall set a hearing date
18 not less than 10 days after the date of the notice.

19 (b) The failure of a company to appear at a hearing
20 after receipt of a statement of the charges and notice of
21 hearing is considered a waiver of notice and hearing, a
22 stipulation that the charges against the company are true,
23 immediately suspends the company's certificate of authority
24 for 30 days, and subjects the company to any other applicable
25 provisions of this Code. The Director must notify the
26 company of any suspension or action taken under this Section.

27 (215 ILCS 5/351E-40 new)

28 Sec. 351E-40. Sanctions; judicial review.

29 (a) If after a hearing pursuant to Section 351E-35, the
30 Director finds that company has engaged in an unfair or
31 improper practice, he or she shall order the company to cease
32 and desist from those practices. In the exercise of

1 reasonable discretion, the Director may suspend the company's
 2 certificate of authority for a period not to exceed 6 months
 3 or impose a civil penalty of up to \$250,000, or both.
 4 Pursuant to Section 401, the Director shall promulgate
 5 reasonable rules establishing standards for the
 6 implementation of this Section.

7 (b) An order of the Director under Section is subject to
 8 judicial review under Section 407 of this Code.

9 (215 ILCS 5/351E-45 new)

10 Sec. 351E-45. Attorney fees.

11 (a) If, in an action by or against a company, there is
 12 in issue a violation of this Article or an unreasonable delay
 13 in settling a claim, the court may allow as part of the
 14 taxable costs in the action reasonable attorney fees, other
 15 costs, plus an amount not to exceed any one of the following
 16 amounts:

17 (1) 25% of the amount which the court or jury finds
 18 the party is entitled to recover against the company,
 19 exclusive of all costs;

20 (2) \$25,000;

21 (3) the excess of the amount that the court or jury
 22 finds the party is entitled to recover, exclusive of
 23 costs, over the amount, if any, that the company offered
 24 to pay in settlement of the claim prior to the action.

25 (215 ILCS 5/351E-50 new)

26 Sec. 351E-50. Purchase of health care services. Nothing
 27 in this Article or any contract may deny an individual the
 28 right to purchase any health care services with that
 29 individual's own funds.

30 (215 ILCS 5/351E-55 new)

31 Sec. 351E-55. Prohibition of waiver of terms, conditions

1 and prohibitions. A company contract or policy, either formal
2 or informal, may not contain any provision, term, condition,
3 or procedure that limits, restricts, or otherwise waives any
4 of the terms, conditions, and prohibition set forth in this
5 Article. Any provision purporting to make such a waiver is
6 void and unenforceable.

7 (215 ILCS 5/351E-60 new)

8 Sec. 351E-60. Employment Contracts. Nothing in this
9 Article shall be construed to mean that a health care
10 professional employment contract is addressed under this
11 Article.