

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 ARTICLE XIXE. 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 notice of the terms and conditions of  
14 individual or group health care professional or health care  
15 provider service contracts.

16 (215 ILCS 5/351E-10 new)

17 Sec. 351E-10. Definitions.

18 "Company" means a person that establishes, operates, or  
19 maintains a network, panel, or group of health care  
20 professionals or health care providers where the  
21 professionals or providers have entered into an agreement or  
22 contract with the company to provide health care services to  
23 enrollees, beneficiaries, or insureds.

24 "Contract" means any written agreement between a company  
25 and a health care professional or health care provider for  
26 the provision of health care services.

27 "Covered services" means health care services that are  
28 eligible for coverage under the company's product, policy, or

1 benefit plan.

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

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

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

21 "Material" means a fact or situation that is not merely  
22 technical in nature and results or could result in a  
23 substantial change in the situation.

24 "Person" means an individual, group, corporation,  
25 association, partnership, limited liability company, sole  
26 proprietorship, or any other legal entity.

27 "Physician" means a person licensed under the Medical  
28 Practice Act of 1987.

29 (215 ILCS 5/351E-15 new)

30 Sec. 351E-15. Fairness in contracting procedures. A  
31 company shall provide a complete copy of the proposed  
32 contract with all attachments and exhibits. The health care  
33 professional or health care provider shall be allowed at

1 least 30 days to review the complete contract before being  
2 required to sign the contract.

3 (215 ILCS 5/351E-20 new)

4 Sec. 351E-20. All products clauses. A company shall not  
5 require a health care professional or health care provider,  
6 as a condition of participating in one of the company's  
7 networks, to sign a contract to provide services under  
8 another of the company's networks. Copayments, coinsurance,  
9 deductibles, and covered services may vary from patient to  
10 patient within a network.

11 (215 ILCS 5/351E-25 new)

12 Sec. 351E-25. Payment rates.

13 (a) A company shall make payments to a health care  
14 professional or health care provider in accordance with its  
15 contract with the professional or provider. A company may not  
16 make payments under a contract to the health care  
17 professional or health care provider based upon rates agreed  
18 to by the professional or provider in another contract.

19 (b) A company may not reduce or attempt to reduce  
20 payment to a professional or provider for services provided  
21 using an amount, discount, or payment reduction formula or  
22 methodology that the company and the professional or provider  
23 have not directly and specifically agreed upon and stated in  
24 the written contract as applying to the service in question.

25 (c) The company must provide a method or process that  
26 allows the professional or provider to determine the payment  
27 amounts for each health care service prior to signing the  
28 contract and, if the health care professional or health care  
29 provider is not paid on a service by service basis, the  
30 amounts payable and terms of payment under that alternative  
31 payment system.

1 (215 ILCS 5/351E-30 new)

2 Sec. 351E-30. Payment responsibility. The company  
3 contracting with the health care professional or health care  
4 provider is directly responsible for the payment to the  
5 health care professional or health care provider at the  
6 payment rates specified in the contract for any services  
7 provided and payable under the contract. Nothing in this  
8 Section shall prohibit the company from contracting with  
9 another person to process payments on its behalf.

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

11 Sec. 351E-35. Payment advice. A company shall provide a  
12 payment statement to a health care professional or health  
13 care provider that identifies the disposition of each claim,  
14 including services billed, the contracted payment rates, the  
15 actual payment, if any, for the services billed, the reason  
16 for any payment reduction to the claim submitted, and the  
17 reason for any denial of the claim. Nothing in this Section  
18 requires a company to pay health care professionals and  
19 health care providers on a service by service basis.  
20 Companies may enter into capitation and other payment  
21 arrangements. Health care professionals and health care  
22 providers shall be allowed to collect any difference between  
23 the amount paid by the company and the amount due under the  
24 contract between the company and the health care professional  
25 or health care provider.

26 (215 ILCS 5/351E-40 new)

27 Sec. 351E-40. Proposed changes. A company shall provide  
28 a health care professional or health care provider written  
29 notice of any proposed material changes to the contract and  
30 shall provide the professional or provider the opportunity to  
31 terminate the contract prior to the effective date of the  
32 proposed change. A company shall provide at least 90 days

1 notice of any proposed change.

2 (215 ILCS 5/351E-45 new)

3 Sec. 351E-45. Unilateral terms prohibited. A company may  
4 not require a health care professional or health care  
5 provider to accept unilateral terms concerning termination,  
6 indemnification, or arbitration. These provisions shall all  
7 apply equally to both the company and health care  
8 professional or health care provider. Immediate written  
9 notice of termination may be provided when a health care  
10 professional's or provider's license has been disciplined by  
11 a State licensing board.

12 (215 ILCS 5/351E-50 new)

13 Sec. 351E-50. Noncovered services. A company shall  
14 acknowledge that a health care professional and health care  
15 provider may bill and collect payments for noncovered  
16 services from enrollees, beneficiaries, insureds, or  
17 patients.

18 (215 ILCS 5/351E-55 new)

19 Sec. 351E-55. Changing service codes.

20 (a) A company may not change a service code (current  
21 procedural terminology (CPT), current dental terminology  
22 (CDT), ICD-9-CM, diagnosis related groups (DRGs), or other  
23 system) submitted by the health care professional or health  
24 care provider without prior notification, consultation, and  
25 agreement. The company shall determine the manner in which it  
26 adjudicates claims. Notwithstanding the preceding, the  
27 company may correct errors in submitted claims that prevent  
28 the claims from being processed and adjudicated, provided  
29 that the company informs the professional or provider of the  
30 corrections and provides the professional or provider with  
31 the opportunity to appeal any corrections.

1       (b) Nothing in this Section is intended to require a  
2       company to pay specific codes. The company may limit the  
3       service codes it pays for based upon factors including, but  
4       not limited to, the bundling of services and multiple  
5       surgeries. In any case, the company must comply with Section  
6       351E-35.

7           (215 ILCS 5/351E-60 new)

8       Sec. 351E-60. Billing for covered services. A company  
9       shall allow a health care professional or health care  
10       provider to submit an initial claim for services within 6  
11       months, and any final claim within one year, after the date  
12       services were rendered.

13           (215 ILCS 5/351E-65 new)

14       Sec. 351E-65. Recoupments. Any attempt by a company to  
15       recoup payments shall be initiated by providing a written  
16       explanation of any proposed recoupment including, but not  
17       limited to, the name of the patient, the date of service, the  
18       service code, and the payment amount, the details concerning  
19       the reasons for the recoupment, and an explanation of the  
20       appeal process. A health care professional or health care  
21       provider shall be given 30 days to appeal the proposed  
22       recoupment or to repay the recoupment amount. If the  
23       professional or provider chooses to appeal the proposed  
24       recoupment and, upon appeal, the proposed recoupment is  
25       determined to be appropriate, the professional or provider  
26       must pay the recoupment within 30 days of receiving the  
27       notice of the final appeal's decision. If the professional or  
28       provider does not make any required recoupment payment within  
29       these time frames, the company may offset future payments to  
30       effectuate the recoupment. Company attempts to recoup any  
31       payments shall be initiated within 24 months after the date  
32       of service, except in an instance in which the health care

1 professional or health care provider has been convicted of  
2 insurance fraud.

3 (215 ILCS 5/351E-70 new)

4 Sec. 351E-70. Silent networks. A company may rent,  
5 lease, or otherwise assign its network to another person. The  
6 company shall provide notification to the health care  
7 professionals and health care providers when the company is  
8 renting, leasing, or otherwise assigning its network to  
9 another person in those instances when the rental, lease, or  
10 assignment will result in any material difference in how care  
11 is approved or paid. The notification shall include the name  
12 and address of the person renting, leasing, or otherwise  
13 utilizing the network and the procedures for submitting  
14 claims.

15 A person renting, leasing, or otherwise utilizing a  
16 company's network may rent, lease, or use either the entire  
17 network or any portion thereof.

18 The person renting, leasing, or otherwise utilizing a  
19 company's network or any portion thereof shall agree to use  
20 the payment rates agreed to in the contracts between the  
21 company and the professionals and providers.

22 The person renting, leasing, or otherwise utilizing a  
23 company's network or any portion thereof shall comply with  
24 Sections 351E-30, 351E-35, 351E-50, 351E-60, and 351E-65,  
25 which may not be waived.

26 (215 ILCS 5/351E-75 new)

27 Sec. 351E-75. Prohibition of waiver of requirements and  
28 prohibitions. A company contract or policy, either formal or  
29 informal, shall not contain any provision, term, condition,  
30 or procedure that limits, restricts, or otherwise waives any  
31 of the requirements and prohibitions set forth in this  
32 Article. Any provision purporting to make such a waiver is

1 void and unenforceable.

2 (215 ILCS 5/351E-80 new)

3 Sec. 351E-80. Employment contracts. Nothing in this  
4 Article shall be construed to mean that a health care  
5 professional employment contract is addressed under this  
6 Article.

7 (215 ILCS 5/351E-85 new)

8 Sec. 351E-85. Rulemaking. The Director shall issue such  
9 rules as he or she shall deem necessary to administer this  
10 Article.

11 (215 ILCS 5/351E-90 new)

12 Sec. 351E-90. Enforcement. The Department shall enforce  
13 the provisions of this Article pursuant to the enforcement  
14 powers granted it by law. The Department is hereby granted  
15 specific authority to issue a cease and desist order, impose  
16 a civil penalty, or otherwise penalize persons violating this  
17 Article.

18 (215 ILCS 5/351E-95 new)

19 Sec. 351E-95. Applicability. This Article applies to  
20 policies and contracts amended, delivered, issued, or renewed  
21 on or after the effective date of this amendatory Act of the  
22 92nd General Assembly. This Article does not diminish a  
23 company's duties and responsibilities under other federal or  
24 State law or rules promulgated thereunder.

25 Section 90. The Health Maintenance Organization Act is  
26 amended by changing Section 4-6.5 as follows:

27 (215 ILCS 125/4-6.5)

28 Sec. 4-6.5. Required health benefits; Illinois Insurance



1 Code requirements. A health maintenance organization is  
2 subject to the provisions of Article XIXE and Sections  
3 155.37, 356t, 356u, and 356z.1 of the Illinois Insurance  
4 Code.

5 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;  
6 revised 9-12-01.)

7 Section 99. Effective date. This Act takes effect 180  
8 days after becoming law.

1 INDEX

2 Statutes amended in order of appearance

- 3 215 ILCS 5/Art. XIXE heading new
- 4 215 ILCS 5/351E-1 new
- 5 215 ILCS 5/351E-5 new
- 6 215 ILCS 5/351E-10 new
- 7 215 ILCS 5/351E-15 new
- 8 215 ILCS 5/351E-20 new
- 9 215 ILCS 5/351E-25 new
- 10 215 ILCS 5/351E-30 new
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- 20 215 ILCS 5/351E-80 new
- 21 215 ILCS 5/351E-85 new
- 22 215 ILCS 5/351E-90 new
- 23 215 ILCS 5/351E-95 new
- 24 215 ILCS 125/4-6.5