

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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- 19 215 ILCS 5/351E-75 new
- 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