

1 AMENDMENT TO SENATE BILL 1849

2 AMENDMENT NO. _____. Amend Senate Bill 1849, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (215 ILCS 5/Art. XIXE heading new)

8 ARTICLE XIXE. HEALTH CARE SERVICES CONTRACTING

9 (215 ILCS 5/351E-1 new)

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

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

13 Sec. 351E-5. Purpose. The purpose of this Article is to
14 provide reasonable notice of the terms and conditions of
15 individual or group health care professional or health care
16 provider service contracts.

17 (215 ILCS 5/351E-10 new)

18 Sec. 351E-10. Definitions.

19 "Company" means, for the purposes of this Article, a

1 person that establishes, operates, or maintains a network,
2 panel, or group of health care professionals or health care
3 providers where the professionals or providers have entered
4 into a contract with the company to provide health care
5 services to enrollees, beneficiaries, or insureds, including,
6 but not limited to, insurance companies, health maintenance
7 organizations, preferred provider organizations, third party
8 administrators, independent practice associations, and
9 physician-hospital organizations.

10 "Contract" means any written agreement between a company
11 and a health care professional, health care provider, or
12 another company for the provision of health care services.

13 "Covered services" means health care services that are
14 eligible for coverage.

15 "Department" means the Department of Insurance.

16 "Health care professional" means a physician, dentist,
17 podiatric physician, physician assistant, advanced practice
18 nurse, registered professional nurse, optometrist, physical
19 therapist, clinical psychologist, pharmacist, or other
20 individual, or group, appropriately licensed to provide
21 health care services.

22 "Health care provider" means any hospital, ambulatory
23 surgical treatment center, pharmacy, long term care facility,
24 or other facility or group that is licensed or otherwise
25 authorized to deliver health care services.

26 "Health care services" means any services included in the
27 furnishing to any individual of medical or dental care, or
28 hospitalization incident to the furnishing of medical or
29 dental care, as well as the furnishing to any individual of
30 any other services for the purpose of preventing,
31 alleviating, curing, or healing human illness, condition, or
32 injury, including home health and pharmaceutical services and
33 products.

34 "Material" means a term or condition that is not merely

1 technical in nature and results or could result in a
2 substantial change in (i) a term or condition of the contract
3 such as a change in payment rates or a change in termination
4 clauses or (ii) a administrative policy applied to the
5 contract such as a change in claims submission procedures or
6 a change in appeals procedures.

7 "Person" means an individual, group, corporation,
8 association, partnership, limited liability company, sole
9 proprietorship, or any other legal entity.

10 (215 ILCS 5/351E-15 new)

11 Sec. 351E-15. Fairness in contracting procedures. A
12 complete copy of the proposed contract with all attachments
13 and exhibits shall be provided to the health care
14 professional or health care provider. The health care
15 professional or health care provider shall be allowed at
16 least 30 days to review the complete contract before being
17 required to sign the contract.

18 (215 ILCS 5/351E-20 new)

19 Sec. 351E-20. Payment rates.

20 (a) Payments under a contract with a health care
21 professional or health care provider shall not be based upon
22 rates agreed to by the professional or provider in another
23 contract.

24 (b) Payment to a professional or provider for services
25 provided may not be reduced using an amount, discount, or
26 payment reduction formula or methodology that the
27 professional or provider has not directly and specifically
28 agreed upon and is included in the written contract as
29 applying to the service in question.

30 (c) A method or process that allows the professional or
31 provider to ascertain the payment amounts for each health
32 care service shall be provided prior to signing the contract,

1 and if the health care professional or health care provider
2 is not paid on a service by service basis, the amounts
3 payable and terms of payment under that alternative payment
4 system shall be stated.

5 (d) A method or process that allows the professional or
6 provider to ascertain any claims adjudication processes that
7 affect under what circumstances a service will be paid shall
8 be provided prior to signing the contract.

9 (e) Nothing in this Section shall prohibit a company
10 from establishing payment amounts for service codes for new
11 services.

12 (215 ILCS 5/351E-25 new)

13 Sec. 351E-25. Payment advice. A payment statement shall
14 be furnished to a health care professional or health care
15 provider for services provided under the contract that
16 identifies the disposition of each claim, including services
17 billed, the contracted payment rates, and the actual payment,
18 if any, for the services billed, the reason for any payment
19 reduction to the claim submitted, and the reason for denial
20 of any claim. Nothing in this Section requires that a health
21 care professional or health care provider be paid on a
22 service by service basis. Payments may be made based on
23 capitation and other payment arrangements. The company shall
24 pay to health care professionals and health care providers
25 the amount specified in the contract for the services
26 provided reduced only by any amounts due from enrollees,
27 beneficiaries, or insureds such as coinsurance, copayments,
28 and deductibles. Health care professionals and health care
29 providers shall be allowed to collect such amounts due from
30 enrollees, beneficiaries, or insureds.

31 (215 ILCS 5/351E-30 new)

32 Sec. 351E-30. Proposed changes. A health care

1 professional or health care provider shall be provided
2 written notice of any proposed material changes to the
3 contract or its administrative policies. The professional or
4 provider shall be given the opportunity to terminate the
5 contract prior to the effective date of the proposed change.
6 At least 90 days notice of any proposed change shall be
7 provided.

8 (215 ILCS 5/351E-35 new)

9 Sec. 351E-35. Noncovered services. A health care
10 professional and health care provider may bill and collect
11 payments from enrollees, beneficiaries, insureds, or patients
12 for services not covered for the enrollees, beneficiaries,
13 insureds, or patients.

14 (215 ILCS 5/351E-40 new)

15 Sec. 351E-40. Billing for covered services. A health
16 care professional or health care provider shall be allowed to
17 submit an initial claim for services within 6 months and any
18 final claim within one year after the date services were
19 rendered.

20 (215 ILCS 5/351E-45 new)

21 Sec. 351E-45. Recoupments. Any attempt to recoup
22 payments shall be initiated by providing a written
23 explanation of any proposed recoupment, including, but not
24 limited to, the name of the patient, the date of service, the
25 service code, and the payment amount, the details concerning
26 the reasons for the recoupment, and an explanation of the
27 appeal process. A health care professional or health care
28 provider shall be given 60 days to appeal the proposed
29 recoupment or to repay the recoupment amount. If the
30 professional or provider chooses to appeal the proposed
31 recoupment and, upon appeal, the proposed recoupment is

1 determined to be appropriate, the professional or provider
2 must pay the recoupment within 30 days after receiving the
3 notice of the final appeal's decision. If the professional or
4 provider does not make any required recoupment payment within
5 these time frames, the company may offset future payments to
6 effectuate the recoupment. Attempts to recoup any payments
7 shall be initiated within 24 months after the date of
8 service, except in an instance in which the health care
9 professional or health care provider has been found guilty of
10 committing civil or criminal insurance fraud.

11 (215 ILCS 5/351E-50 new)

12 Sec. 351E-50. Prohibition of waiver of requirements and
13 prohibitions. No contract or administrative policy, either
14 formal or informal, shall contain any provision, term,
15 condition, or procedure that limits, restricts, or otherwise
16 waives any of the requirements and prohibitions set forth in
17 this Article. Any provision purporting to make such a waiver
18 is void and unenforceable.

19 (215 ILCS 5/351E-55 new)

20 Sec. 351E-55. Employment contracts. Nothing in this
21 Article shall be construed to mean that a health care
22 professional employment contract is addressed under this
23 Article.

24 (215 ILCS 5/351E-60 new)

25 Sec. 351E-60. Rulemaking. The Director of Insurance
26 shall issue such rules as he or she shall deem necessary to
27 administer this Article.

28 (215 ILCS 5/351E-65 new)

29 Sec. 351E-65. Enforcement. The Department shall enforce
30 the provisions of this Article pursuant to the enforcement

1 powers granted it by law. The Department is hereby granted
2 specific authority to issue a cease and desist order, impose
3 a civil penalty, or otherwise penalize persons violating this
4 Article.

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

6 Sec. 351E-70. Applicability.

7 (a) This Article applies to any contract between a
8 company and a health care professional or health care
9 provider for the provision of health care services amended,
10 delivered, issued, or renewed on or after the effective date
11 of this amendatory Act of the 92nd General Assembly.

12 (b) This Article does not diminish duties and
13 responsibilities under other federal or State law or rules
14 promulgated thereunder.

15 (c) This Article does not apply to self-insured health
16 plans under the federal Employee Retirement Income Security
17 Act of 1974, however, this Article does apply to companies
18 contracting on behalf of these health plans.

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

21 (215 ILCS 125/4-6.5)

22 Sec. 4-6.5. Required health benefits; Illinois Insurance
23 Code requirements. A health maintenance organization is
24 subject to the provisions of Article XIXE and Sections
25 155.37, 356t, 356u, and 356z.1 of the Illinois Insurance
26 Code.

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

29 Section 99. Effective date. This Act takes effect 180
30 days after becoming law."