LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: C.J. Dupont ₵
₵ 02-26-13 6:58 AM ₵

HEALTH INSURANCE MARKET AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Insurance Code.

Highlighted Provisions:

This bill:

- defines terms;
- applies the provisions of the bill to a health insurer with at least 15% market share in the fully insured market in the state;
- requires a health insurer to provide due process protections to a physician before denying a physician's application to be included on the health insurer's panel of providers or terminating a physician from a panel of providers;
- prohibits a health insurer from using economic reasons to deny a physician participation on the insurer's panel of providers; and
- provides a private right of action if the health insurer violates the requirements of this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

S.B. 242

31A-22-641, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-22-641** is enacted to read:

31A-22-641. Prohibition against insurance plan anticompetitive behavior.

(1) For purposes of this section:

(a) "Health insurer" means an accident and health insurer:

(i) that offers health benefit plans under this chapter or Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(ii) that has a market share in the state's fully insured market of at least 15% as determined in the department's annual Market Share Report published by the department.

(b) "Physician" means a physician or an osteopathic physician as defined in Section 58-67-102.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), a health insurer shall not deny a physician's application to be on an insurer's provider panel or terminate a physician's participation on an insurer's provider panel **Ŝ→ :**

(A) ←Ŝ without first providing the physician with the due process protections required by this section **Ŝ→ ; or**

(B) in violation of Subsection (3) ←Ŝ .

(ii) Unless termination from an insurer's provider panel is necessary to avoid imminent patient injury, a health insurer shall not terminate a physician from participation on the insurer's provider panel without first providing the physician the due process protections required by this section.

(b) Due process includes:

(i) a statement, sent by certified mail, return receipt requested, or equivalent electronic communication that includes the requirements of Subsections (2)(b)(ii) through (iv);

(ii) a detailed explanation of the reasons for the proposed denial or termination of provider panel participation;

(iii) notice of the physician's right to a full, fair, objective, and independent, in-person hearing, pursuant to rules established by the department by administrative rule, at which the physician may challenge the proposed denial or termination; and

(iv) at least 60 days advance notice before scheduling a hearing under Subsection (2)(b)(iii).

(3) (a) Ŝ→ [~~A health insurer shall include a physician on its panel of providers for the insurer's health benefit plans if the physician meets educational, training, and experience requirements, and has demonstrated current competence.~~

~~(b)~~] ←Ŝ A health insurer shall apply reasonable, nondiscriminatory standards for the evaluation of a physician's qualifications Ŝ→ [~~under this Subsection (3)~~] **for inclusion on an insurer's provider panel** ←Ŝ . The decision to include a physician on an insurer's provider panel shall be based on an objective evaluation of the physician's qualifications, Ŝ→ **training, experience, and competency,** ←Ŝ free of anticompetitive intent or purpose.

Ŝ→ [~~(c)~~] **(b)** ←Ŝ A health insurer shall not consider any of the following with regard to determining a physician's qualifications for inclusion on the insurer's provider panel:

(i) a physician's decision to advertise, decrease fees, or engage in other competitive acts intended to solicit business;

(ii) a physician's:

(A) participation in prepaid group health plans;

(B) participation with other health plans not organizationally affiliated with the insurer;

(C) employment relationship with the insurer or an organization affiliated with the insurer, or with an organization that is not affiliated with the insurer;

(D) participation in any manner of delivery of health services other than fee-for-service; or

(E) support for, training of, or participation in a group practice that is not affiliated with the insurer, or has members of a particular class of health professionals;

(iii) a physician's referrals to:

(A) a particular hospital or hospital system;

(B) a particular outpatient center for surgical services;

(C) a health care facility, as defined in Section 26-21-2, that is not affiliated with, or does not contract with, the insurer; or

(D) a physician's office or clinic, whether for individual or group practice, that is not affiliated with, or does not contract with, the insurer; or

(iv) a physician or a partner, associate, or employee of the physician:

(A) providing medical or health care services at, having an ownership interest in, or occupying a leadership position on the medical staff of a hospital, hospital system, or health care facility; or

(B) participating or not participating in a particular health plan.

(4) A health insurer that violates the provisions of this section:

(a) is subject to regulatory action under this title; and

(b) may be held liable to the physician in a private right of action for the violations, including proximately caused damages.

Legislative Review Note
as of 2-25-13 3:30 PM

Office of Legislative Research and General Counsel