
SENATE BILL 5588

State of Washington

69th Legislature

2025 Regular Session

By Senator Cleveland

1 AN ACT Relating to the relationships between health carriers and
2 contracting providers; amending RCW 48.49.135; adding a new section
3 to chapter 48.43 RCW; creating a new section; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 48.49.135 and 2022 c 263 s 18 are each amended to
7 read as follows:

8 (1) When determining the adequacy of a proposed provider network
9 or the ongoing adequacy of an in-force provider network, the
10 commissioner must review the carrier's proposed provider network or
11 in-force provider network to determine whether the network includes a
12 sufficient number of contracted providers of emergency medicine,
13 anesthesiology, pathology, radiology, neonatology, surgery,
14 hospitalist, intensivist(~~(+)~~), and diagnostic services, including
15 radiology and laboratory services at or for the carrier's contracted
16 in-network hospitals or ambulatory surgical facilities to reasonably
17 ensure enrollees have in-network access to covered benefits delivered
18 at that facility.

19 (2)(a) When determining the adequacy of a proposed provider
20 network or the ongoing adequacy of an in-force provider network, the
21 commissioner may allow a carrier to submit an alternate access

1 delivery request. The commissioner shall define the circumstances
2 under which a carrier may submit an alternate access delivery request
3 and the requirements for submission and approval of such a request in
4 rule. To submit an alternate access delivery request, a carrier
5 shall:

6 (i) Ensure that enrollees will not bear any greater cost of
7 receiving services under the alternate access delivery request than
8 if the provider or facility was contracted with the carrier or make
9 other arrangements acceptable to the commissioner;

10 (ii) Provide substantial evidence of good faith efforts on its
11 part to contract with providers or facilities. If a carrier is
12 submitting an alternate access delivery request for the same service
13 and geographic area as a previously approved request, the carrier
14 shall provide new or additional evidence of good faith efforts to
15 contract associated with the current request;

16 (iii) Demonstrate that there is not an available provider or
17 facility with which the carrier can contract to meet the
18 commissioner's provider network standards; and

19 (iv) For services for which balance billing is prohibited under
20 RCW 48.49.020, notify out-of-network providers or facilities that
21 deliver the services referenced in the alternate access delivery
22 request within five days of submitting the request to the
23 commissioner. Any notification provided under this subsection shall
24 include contact information for carrier staff who can provide
25 detailed information to the affected provider or facility regarding
26 the submitted alternate access delivery request.

27 (b) For services for which balance billing is prohibited under
28 RCW 48.49.020, a carrier may not treat its payment of
29 nonparticipating providers or facilities under this chapter or P.L.
30 116-260 (enacted December 27, 2020) as a means to satisfy network
31 access standards established by the commissioner unless all
32 requirements of this subsection are met.

33 (i) If a carrier is unable to obtain a contract with a provider
34 or facility delivering services addressed in an alternate access
35 delivery request to meet network access requirements, the carrier may
36 ask the commissioner to amend the alternate access delivery request
37 if the carrier's communication to the commissioner occurs at least
38 three months after the effective date of the alternate access
39 delivery request and demonstrates substantial evidence of good faith
40 efforts on its part to contract for delivery of services during that

1 three-month time period. If the carrier has demonstrated substantial
2 evidence of good faith efforts on its part to contract, the
3 commissioner shall allow a carrier to use the dispute resolution
4 process provided in RCW 48.49.040 to determine the amount that will
5 be paid to providers or facilities for services referenced in the
6 alternate access delivery request. The commissioner may determine by
7 rule the associated processes for use of the dispute resolution
8 process under this subsection.

9 (ii) Once notification is provided by the carrier to a provider
10 or facility under (a) of this subsection, a carrier is not
11 responsible for reimbursing a provider's or facility's charges in
12 excess of the amount charged by the provider or facility for the same
13 or similar service at the time the notification was provided. The
14 provider or facility shall accept this reimbursement as payment in
15 full.

16 (3) When determining the adequacy of a carrier's proposed
17 provider network or the ongoing adequacy of an in-force provider
18 network, beginning January 1, 2023, the commissioner shall require
19 that the carrier's proposed provider network or in-force provider
20 network include a sufficient number of contracted behavioral health
21 emergency services providers.

22 (4) When determining the ongoing adequacy of an in-force provider
23 network, the commissioner shall determine whether providers included
24 in a carrier's network are actually providing services to the
25 carrier's enrollees. For purposes of implementing this subsection,
26 the commissioner shall adopt, by rule, a uniform data request form
27 and may adopt additional requirements consistent with this
28 subsection. When adopting the form, the commissioner shall consider
29 the model data request form developed by the Bowman family
30 foundation's mental health treatment and research institute.

31 NEW SECTION. Sec. 2. A new section is added to chapter 48.43
32 RCW to read as follows:

33 (1) Prior to entering into or renewing a contract with a health
34 care provider, a health carrier shall offer the provider a meaningful
35 opportunity to negotiate the terms of the contract. Any negotiations
36 conducted under this subsection must be in good faith. The following
37 conduct violates this subsection:

1 (a) Failure to furnish the provider with the name and contact
2 information of a person the carrier has designated as the primary
3 contact for contract negotiations;

4 (b) When a contract is being renewed, failure to furnish the
5 provider, upon the provider's request, a copy of the new contract
6 that clearly indicates the differences between the new contract and
7 the previous contract;

8 (c) Refusal to negotiate with a group of providers with the same
9 employer or the same federal tax identification number;

10 (d) Failure to furnish the provider, upon the provider's request,
11 with a fee schedule in a manner that does not require access to a
12 secure website or other portal, such as by mailing a hard copy to the
13 provider or by emailing an electronic copy to the provider; or

14 (e) Any other conduct determined, in rules adopted by the
15 commissioner, to violate this subsection.

16 (2) Provider contracts entered into or renewed on or after the
17 effective date of this section may not include:

18 (a) An all-or-nothing clause; or

19 (b) A requirement that the provider accept a discounted rate
20 under any other contract to which the provider is a party.

21 (3) A health carrier shall provide contract and payment policy
22 updates in a manner that does not require access to a secure website
23 or other portal, such as by mailing a hard copy to the provider or by
24 emailing an electronic copy to the provider.

25 (4) This section applies to a health care benefit manager acting
26 on behalf of the carrier.

27 (5) For purposes of this section:

28 (a) "All-or-nothing clause" means a provision in a provider
29 contract that requires a provider to contract with multiple health
30 plans or other insurance products offered by, or associated with, the
31 health carrier.

32 (b) "Health care benefit manager" has the same meaning as
33 provided in RCW 48.200.020.

34 (c) In addition to the definition in RCW 48.43.005, "health
35 carrier" also includes a limited health care service contractor
36 offering dental only coverage and a health carrier offering dental
37 only coverage.

38 (6) Any trade secrets or other confidential information disclosed
39 to the commissioner under this section are confidential and exempt
40 from public disclosure under chapter 42.56 RCW.

1 (7) This section does not apply to negotiations between a health
2 carrier and a provider who is an employee of the health carrier or a
3 provider who is an employee of a hospital.

4 NEW SECTION. **Sec. 3.** The insurance commissioner may adopt any
5 rules necessary to implement this act.

6 NEW SECTION. **Sec. 4.** Sections 1 and 2 of this act take effect
7 January 1, 2027.

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