

Regular Session, 1999

HOUSE BILL NO. 1072

BY REPRESENTATIVE ALEXANDER

AN ACT

To amend and reenact R.S. 40:2202(6) and to enact R.S. 40:2203.1, relative to preferred provider organizations; to prohibit certain practices by such organizations; to place limitations on the terms of preferred provider agreements; to provide for a cause of action by a provider against a group purchaser who establishes a preferred provider organization for certain acts; to provide with respect to the definition of provider; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2202(6) is hereby amended and reenacted and R.S. 40:2203.1 is hereby enacted to read as follows:

§2202. Definitions

As used in this Part, the following definitions shall apply:

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(6) "Provider" shall mean one or more entities which offer health care services and shall include but not be limited to hospitals, individuals, or groups of physicians, individuals or groups of psychologists, nurse midwives, ambulance service companies, and other health care entities. Any health care entity which is specifically covered by a group purchaser's insurance policy, employee benefits,

self-funded organization or Taft-Hartley trust benefits or plan shall be construed to be a "provider" for purposes of consideration under this Part.

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§2203.1. Prohibition of certain practices by preferred provider organizations

A. Except as otherwise provided in this Subsection, the requirements of this Section shall apply to all preferred provider organization agreements that are applicable to medical services rendered in this state and to group purchasers as defined in this Part. The provisions of this Section shall not apply to a group purchaser when providing health benefits through its own network or direct provider agreements or to such agreements of a group purchaser.

B. A preferred provider organization's alternative rates of payment shall not be enforceable or binding upon any provider unless such organization is clearly identified on the benefit card issued by the group purchaser or other entity accessing a group purchaser's contractual agreement or agreements and presented to the participating provider when medical care is provided. When more than one preferred provider organization is shown on the benefit card of a group purchaser or other entity, the applicable contractual agreement that shall be binding on a provider shall be determined as follows:

(1) The first preferred provider organization domiciled in this state, listed on the benefit card, beginning on the front of the card, reading from left to right, line by line, from top to bottom, that is applicable to a provider on the date medical care is rendered, shall establish the contractual agreement for payment that shall apply.

(2) If there is no preferred provider organization domiciled in this state listed on the benefit card, the first preferred provider organization domiciled outside this state listed on the benefit card, following the same process outlined in Paragraph (1) of this Subsection shall establish the contractual agreement for payment that shall apply.

(3) The side of the benefit card that prominently identifies the name of the insurer, or plan sponsor and beneficiary shall be deemed to be the front of the card.

(4) When no preferred provider organization is listed, the plan sponsor or insurer identified by the card shall be deemed to be the group purchaser for purposes of this Section.

(5) When no benefit card is issued or utilized by a group purchaser or other entity, written notification shall be required of any entity accessing an existing group purchaser's contractual agreement or agreements, at least thirty days prior to accessing services through a participating provider under such agreement or agreements.

C. A preferred provider organization agreement shall not be applied or used on a retroactive basis unless all providers of medical services that are affected by the application of alternative rates of payment receive written notification from the entity that seeks such an arrangement and agree in writing to be reimbursed at the alternative rates of payment.

D. In no instance shall any provider be bound by the terms of a preferred provider organization agreement that is in violation of this Part.

E. Any claim submitted by a provider for services provided to a person identified by the provider and a group purchaser as eligible for alternative rates of payment in a preferred provider agreement shall be subject to the standards for claims submission and timely payment according to the provisions of Part VI-D of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

F. A group purchaser establishing a preferred provider organization shall be prohibited from charging a credentialing fee or any other type of monetary fee, when no access to a group purchaser is provided. Any provider who participates in a preferred provider organization may be charged a reasonable fee either on a periodic basis or based on the tangible benefits received from continued participation in a preferred provider organization. Such fees may be based on actual utilization of alternative rates of payment by group purchasers or other authorized entities or other reasonable basis other than membership.

G. Failure to comply with the provisions of Subsection A, B, C, D, or F of this Section shall subject a group purchaser to damages payable to the provider of double the fair market value of the medical services provided, but in no event less than the greater of fifty dollars per day of noncompliance or two thousand dollars, together with attorney fees to be determined by the court. A provider may institute this action in any court of competent jurisdiction.

Section 2. This Act shall apply to preferred provider organization agreements issued, renewed, or amended in any form after January 1, 2000. Existing preferred provider organization agreements shall conform to the provisions of this Act no later than January 1, 2001.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_