

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1466

S.P. 540

In Senate, April 25, 2013

An Act To Amend the Law Governing Provider Contracts with Insurance Companies

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator GOODALL of Sagadahoc.
Cosponsored by Senators: GRATWICK of Penobscot, PATRICK of Oxford, WOODBURY of Cumberland, Representatives: BECK of Waterville, GRAHAM of North Yarmouth.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4303, sub-§18** is enacted to read:

3 **18. Preferred provider arrangement contract requirements.** A contract offered
4 by a carrier to a provider for a preferred provider arrangement, as defined in section 2671,
5 subsection 7, must meet the requirements of this subsection.

6 A. If the contract for a preferred provider arrangement includes a reference to
7 policies or procedures to which a contracting provider would be bound, all such
8 policies and procedures must be provided to the provider for review upon the
9 provider's request at the time the contract is offered.

10 B. A preferred provider arrangement contract offered to a provider by a carrier must:

11 (1) Include a fee schedule; and

12 (2) Identify all health plans for which the provider is agreeing to provide services
13 to health plan enrollees.

14 C. An amendment to the terms of an in-force preferred provider arrangement
15 contract, including, but not limited to, changes to referenced policies and procedures,
16 fee schedules and the identified health plans to which the contract applies, is subject
17 to the notice requirements of subsection 9. The carrier shall obtain the written
18 agreement of a provider to any such amendment that adds to the health plans
19 previously identified pursuant to paragraph B, subparagraph (2) or to a contract,
20 policy or procedure a provision that may materially and adversely affect provider
21 reimbursement, including, but not limited to, increased documentation,
22 preauthorization and utilization review requirements.

23 D. A carrier may not retaliate in any way against a contracted provider, including,
24 but not limited to, excluding a provider from participation in one or more health plans
25 covered by the preferred provider arrangement contract, for the provider's refusal to
26 accept a preferred provider arrangement contract amendment pursuant to paragraph
27 C.

28 E. Except as otherwise required by law, a carrier may not disclose a contracted
29 provider's fee schedule to any party other than the applicable payor under a health
30 plan for which the provider has agreed to provide services to health plan enrollees.

31 F. A provider's contractual participation in a carrier's preferred provider arrangement
32 may not subject the provider to health plan payor requirements or fee schedules that
33 differ from the terms of the provider's contract with the carrier, nor may a carrier's
34 subsequent contract with a health plan payor supersede the terms of the provider's
35 existing preferred provider arrangement contract.

36 G. If a payor under a health plan for which a provider has contracted with a carrier to
37 provide services to health plan enrollees fails to comply with the terms of the
38 provider's underlying preferred provider arrangement contract, the provider, after
39 notice to the carrier and opportunity to cure the noncompliance consistent with the
40 provider's contract with the carrier, may terminate its agreement to provide services

1 under that health plan. The carrier may not terminate or otherwise retaliate against
2 the provider for exercising this right of termination.

3 H. A provider providing a service to an enrollee under a health plan included in the
4 provider's preferred provider arrangement contract may not be subject to
5 preauthorization requirements if the enrollee's health plan does not require prior
6 authorization as a condition of coverage for the applicable service.

7 I. A provider under a preferred provider arrangement contract that has in good faith
8 provided services to a health plan enrollee in reliance upon coverage confirmation
9 and coverage requirement advice obtained consistent with the terms of the provider's
10 contract may not have payment for those services subsequently denied by the
11 applicable health plan payor for any reason that conflicts with the advice earlier
12 provided.

13 J. Explanation of benefits forms or comparable documents, whether in paper or
14 electronic form, that accompany and identify payment of a provider's claims under a
15 preferred provider arrangement contract must identify the administrator and payor of
16 the provider's claims.

17 K. An identification card issued to a health plan enrollee on whose behalf a provider
18 provides services under a preferred provider arrangement contract must identify the
19 claims payor, the claims administrator and the contracting carrier if the contracting
20 carrier is not the claims payor or administrator.

21 L. A contracting preferred provider arrangement carrier shall notify the
22 superintendent if the termination of one or more contracting providers, whether
23 initiated by the carrier or by the claims payor, adversely affects a health plan
24 enrollee's access to covered services.

25 M. It is an unfair trade practice for a preferred provider arrangement contract to
26 subject a provider or health plan enrollee to preauthorization or utilization review
27 requirements designed in whole or in part to generate claims administration fees or to
28 provide a barrier to the enrollee's right to services covered under a health plan or the
29 provider's right to receive payment for those services.

30 The requirements of this subsection must be included in all preferred provider
31 arrangement contracts.

32 **SUMMARY**

33 This bill places certain requirements on contracts for preferred provider
34 arrangements, which are contracts between a health insurance carrier and a health care
35 provider in which the provider agrees to provide services to a health plan enrollee whose
36 plan benefits include incentives for the enrollee to use the services of that provider. This
37 bill imposes requirements and restrictions on these contracts, including:

38 1. Requiring a carrier who offers the contract to a health care provider to include in
39 the contract a fee schedule and to provide any policies or procedures referred to in the
40 contract to the provider, upon request by the provider;

- 1 2. Requiring the approval of a provider, in writing, of an amendment to the contract
2 that materially and adversely affects provider reimbursement, including, but not limited
3 to, increased documentation, preauthorization or utilization review requirements;
- 4 3. Prohibiting a carrier from subjecting enrollees under health plans included in the
5 contract to preauthorization requirements if the enrollee's health plan does not require
6 prior authorization as a condition of coverage for the applicable service; and
- 7 4. Requiring the provisions of law regarding these contracts to be included in each
8 contract.