
SUBSTITUTE HOUSE BILL 1160

State of Washington **67th Legislature** **2021 Regular Session**

By House Health Care & Wellness (originally sponsored by
Representatives Cody, Macri, and Pollet)

READ FIRST TIME 02/05/21.

1 AN ACT Relating to health provider contracts; adding new sections
2 to chapter 48.43 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
5 RCW to read as follows:

6 (1) Beginning January 1, 2022, a contract between a hospital or
7 any affiliate of a hospital and a health carrier may not, directly or
8 indirectly, do any of the following:

9 (a) Set provider compensation agreements or other terms for
10 nonparticipating affiliates of the hospital;

11 (b) Require the health carrier to contract with any one or more
12 of the hospital's affiliates.

13 (i) This section does not prohibit a contract from requiring that
14 the health carrier contract with medical groups with which the
15 hospital's medical staff is affiliated, or a health carrier from
16 voluntarily agreeing to contract with other affiliates of the
17 hospital.

18 (ii) If a health carrier voluntarily agrees to contract with
19 other affiliates of the hospital under (b)(i) of this subsection, the
20 health carrier must file an attestation with the office of the

1 insurance commissioner that complies with the filing requirements of
2 RCW 48.43.730;

3 (c) To the extent that a health plan varies enrollee cost-sharing
4 based upon placing participating providers into tiered provider
5 networks, require health carriers to place the hospital or any
6 affiliate in the tier reflecting the lowest or lower enrollee cost-
7 sharing amounts;

8 (d) Require the health carrier to keep the contract's payment
9 rates confidential from any existing or potential payor that is or
10 may become financially responsible for the payments. This subsection
11 (1)(d) does not prohibit a requirement that any communication of the
12 contract's payment rates to an existing or potential payor be subject
13 to a reasonable nondisclosure agreement.

14 (2) The legislature finds that the practices covered by this
15 section are matters vitally affecting the public interest for the
16 purpose of applying the consumer protection act, chapter 19.86 RCW. A
17 violation of this section is not reasonable in relation to the
18 development and preservation of business and is an unfair or
19 deceptive act in trade or commerce and an unfair method of
20 competition for the purpose of applying the consumer protection act,
21 chapter 19.86 RCW.

22 (3) This section does not apply to the extent that it impairs the
23 ability of a hospital, provider, or health carrier to participate in
24 a state-sponsored, federally funded program, or grant opportunity.

25 (4) For the purposes of this section:

26 (a) "Affiliate" means a person who directly or indirectly through
27 one or more intermediaries, controls or is controlled by, or is under
28 common control with, another specified person.

29 (b) "Control" means the possession, directly or indirectly, of
30 the power to direct or cause the direction of the management and
31 policies of a person, whether through ownership of voting securities,
32 membership rights, by contract, or otherwise.

33 (c) "Provider" means:

34 (i) A health care provider as defined in RCW 48.43.005;

35 (ii) A participating provider as defined in RCW 48.44.010;

36 (iii) A health care facility as defined in RCW 48.43.005; and

37 (iv) Intermediaries that have agreed in writing with a carrier to
38 provide access to providers as defined under this subsection (4)(c)
39 who render covered services to enrollees of a carrier.

1 (d) "Provider compensation agreement" means any written agreement
2 that includes specific information about payment methodology, payment
3 rates, and other terms that determine the remuneration a carrier will
4 pay to a provider.

5 (e) "Tiered provider network" means a network that identifies and
6 groups providers and facilities into specific groups to which
7 different provider reimbursement, enrollee cost sharing, or provider
8 access requirements, or any combination thereof, apply as a means to
9 manage cost, utilization, quality, or to otherwise incentivize
10 enrollee or provider behavior.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
12 RCW to read as follows:

13 (1) Beginning January 1, 2022, health provider contracts between
14 a health carrier and a provider, may not contain a provision that
15 prohibits the disclosure of health care service claims data to
16 employers providing the coverage. However, any disclosure of claims
17 data must comply with state and federal health privacy laws.

18 (2) The legislature finds that the practices covered by this
19 section are matters vitally affecting the public interest for the
20 purpose of applying the consumer protection act, chapter 19.86 RCW. A
21 violation of this section is not reasonable in relation to the
22 development and preservation of business and is an unfair or
23 deceptive act in trade or commerce and an unfair method of
24 competition for the purpose of applying the consumer protection act,
25 chapter 19.86 RCW.

26 (3) For the purposes of this section, "provider" means:

27 (a) A health care provider as defined in RCW 48.43.005;

28 (b) A participating provider as defined in RCW 48.44.010;

29 (c) A health care facility as defined in RCW 48.43.005; and

30 (d) Intermediaries that have agreed in writing with a carrier to
31 provide access to providers as defined under this subsection who
32 render covered services to enrollees of a carrier.

33 NEW SECTION. **Sec. 3.** The insurance commissioner may adopt rules
34 necessary to implement this act.

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