
HOUSE BILL 2885

State of Washington 54th Legislature 1996 Regular Session

By Representatives Cody, Murray, Hymes and Conway

Read first time 01/24/96. Referred to Committee on Health Care.

1 AN ACT Relating to disclosure of information regarding health care
2 services; adding new sections to chapter 48.43 RCW; adding a new
3 section to chapter 70.170 RCW; and creating a new section.

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

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

7 (1) Unless otherwise specifically provided, the definitions in this
8 section apply throughout this section and sections 2 through 4 of this
9 act.

10 (a) "Health care facility" or "facility" means hospices licensed
11 under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW,
12 rural health care facilities as defined in RCW 70.175.020, psychiatric
13 hospitals licensed under chapter 71.12 RCW, nursing homes licensed
14 under chapter 18.51 RCW, community mental health centers licensed under
15 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed
16 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical
17 facilities licensed under chapter 70.41 RCW, drug and alcohol treatment
18 facilities licensed under chapter 70.96A RCW, and home health agencies
19 licensed under chapter 70.127 RCW, and includes such facilities if

1 owned and operated by a political subdivision or instrumentality of the
2 state and such other facilities as required by federal law and
3 implementing regulations.

4 (b) "Health care provider" or "provider" means:

5 (i) A person regulated under Title 18 RCW or chapter 70.127 RCW, to
6 practice health or health-related services, or otherwise practicing
7 health care services in this state consistent with state law; or

8 (ii) An employee or agent of a person described in (b)(i) of this
9 subsection, acting in the course and scope of his or her employment.

10 (c) "Health care service" means that service offered or provided by
11 health care facilities and health care providers relating to the
12 prevention, cure, or treatment of illness, injury, or disease.

13 (d) "Health carrier" or "carrier" means a disability insurer
14 regulated under chapter 48.20 or 48.21 RCW, a health care service
15 contractor as defined in RCW 48.44.010, a health maintenance
16 organization as defined in RCW 48.46.020, plans operating under the
17 state health care authority under chapter 41.05 RCW, the state health
18 insurance pool operating under chapter 48.41 RCW, and insuring entities
19 regulated under this chapter.

20 (e) "Health plan" or "plan" means a health plan as defined in RCW
21 48.43.005(9).

22 (f) "Primary health care provider" means a health care provider who
23 is regulated under chapter 18.130 RCW and is identified by a carrier as
24 the provider an enrollee would most often use to receive health care
25 services.

26 (2) Each health carrier that offers a health plan shall disclose
27 in writing, in a style understandable to a person with an average
28 comprehension of the relevant language, using concise and specific
29 terms, and in a manner prescribed by the insurance commissioner in
30 rule, the following information:

31 (a) A listing of the plan's primary care providers, including
32 degree and certification, practice specialty, the year first licensed
33 to practice, and, if different, the year initially licensed to practice
34 in Washington state;

35 (b) Premium costs;

36 (c) Copayment, coinsurance, or deductible requirements;

37 (d) A listing of health care services and other services included
38 in the health plan benefits to which an enrollee is entitled and a
39 listing of health care services excluded from plan benefits;

1 (e) Names, addresses, telephone numbers, and types of health care
2 facilities and outpatient treatment facilities that are under contract
3 with the health carrier;

4 (f) Procedures for selecting or changing primary care providers,
5 health care facilities, outpatient treatment facilities, or other
6 covered service delivery entities that are covered under the plan;

7 (g) Any limitations of the services, kinds of services, benefits,
8 and exclusions that apply to the plan, addressing, at least:

9 (i) Procedures for nighttime visits, weekend visits, and referrals
10 to specialist providers;

11 (ii) Health care services that can be received and for which
12 payment will be made outside the plan;

13 (iii) Procedures an enrollee must follow, if any, to obtain prior
14 authorization for services, including requirements, if any, of
15 repeating prior authorization to continue receiving specialist care;

16 (iv) Description of and authorization requirements for emergency
17 medical care, specifically addressing twenty-four-hour emergency
18 services;

19 (v) Circumstances under which the carrier may retroactively deny
20 coverage for emergency medical treatment and nonemergency medical
21 treatment that had prior authorization under the plan's written
22 policies; and

23 (vi) Requirements, if any, that plan providers must comply with any
24 specified numbers, targeted averages, or maximum durations of patient
25 visits;

26 (h) Availability and conditions of a point-of-service option;

27 (i) Cost of carrier operations, to be expressed in terms of:

28 (i) Total revenue; and

29 (ii) Percentage of total revenue and ratio to enrollee for the
30 following items: Administrations; advertising and promotional
31 activities; facilities; physician services; nonphysician health
32 provider services; and nonhealth provider services;

33 (j) Procedures for cost-effectiveness, including methods of
34 utilization review and, if done by an organization other than the
35 carrier, the name, address, and telephone number of the utilization
36 review organization;

37 (k) Definition and use of the term "medical necessity";

38 (l) Definition and use of the term "experimental treatment";

1 (m) Criteria and procedures for selecting and dismissing health
2 care providers;

3 (n) Grievance procedures for claim or treatment denials,
4 dissatisfaction with care, and access to care issues;

5 (o) Requirement, if any, that restricts a provider in prescribing
6 drugs from a carrier list or formulary and related reimbursement for
7 costs of a drug that is not on a plan list or plan formulary; and

8 (p) Descriptions and justifications for provider compensation
9 programs, including any incentives or penalties that are intended to
10 encourage providers to withhold services or minimize or avoid referrals
11 to specialists.

12 (3) A health carrier shall not disseminate a completed disclosure
13 form until the form is submitted to the insurance commissioner. For
14 purposes of this section, a health carrier is not required to submit to
15 the insurance commissioner its separate roster of plan providers or any
16 roster updates.

17 (4) Upon request, a health carrier shall provide the information
18 required under subsection (2) of this section to all employers who are
19 considering participating in a health plan that is offered by the
20 health carrier or to an employer that is considering renewal of a plan
21 that is provided by the health carrier.

22 (5) An employer shall provide to its eligible employees the
23 disclosures required under subsection (2) of this section no later than
24 the initiation of any open enrollment period or at least ten days
25 before any employee enrollment deadline that is not associated with an
26 open enrollment period.

27 (6) An employer shall not execute a contract with a health carrier
28 until the employer receives the information required under subsection
29 (2) of this section.

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

32 (1) No public or private health carrier subject to the jurisdiction
33 of the state of Washington may propose, issue, sign, or renew an
34 agreement of any kind, including an enrollee service agreement, that
35 contains a clause or language whose effect, in any way, is to disclaim
36 liability for the care delivered or not delivered to an enrollee
37 because of a decision of the health carrier as to whether the care was

1 a covered service, medically necessary, economically provided,
2 medically appropriate, or similar consideration.

3 (2) No public or private health carrier subject to the jurisdiction
4 of the state of Washington may propose, issue, sign, or renew an
5 agreement of any kind, including an enrollee service agreement, that
6 contains a clause or language whose effect, in any way, is to shift
7 liability to the provider or the patient, or both, for the care
8 delivered or not delivered in material part because of a payment or
9 other related decision of the health carrier. A clause is a violation
10 of this subsection if, by way of illustration and not limitation, it
11 says that the decision to obtain care is between the provider and the
12 patient, failing to acknowledge the role of payment in such decisions.

13 (3) Nothing in this section is to be construed to create new
14 liability on anyone for the health carrier's payment or related
15 decisions. The intent of this section is only to prevent health
16 carriers from disclaiming or shifting any existing liability to either
17 providers or patients, or both.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW
19 to read as follows:

20 It is a violation of law for a health carrier, as defined in
21 section 1 of this act, to require as a condition of payment, contract,
22 or reimbursement that a health care provider or health care facility
23 refrain from disclosing to any person in a free and timely manner the
24 following information:

25 (1) Information set forth in section 1(2) of this act;

26 (2) Specific directions given by a carrier to a provider or
27 facility regarding the availability of health care services and
28 facility available to a specific enrollee;

29 (3) Unless specifically prohibited by law, information regarding
30 potential injury or liability as a result of the delivery of a health
31 care service; or

32 (4) Other information that would contribute to an enrollee's
33 ability to judge the quality of the health plan, health care services,
34 providers, and facilities.

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

1 (1) A public or private entity who in good faith prepares a
2 document of any kind that compares health plans or carriers of any kind
3 is immune from civil liability from claims based on the document and
4 the contents of the document.

5 (2)(a) There is absolute immunity to civil liability from claims
6 based on such a comparison document and its contents if the information
7 was provided by the carrier, was substantially accurately presented,
8 and contained the effective date of the information that the carrier
9 supplied, if any.

10 (b) In the absence of reckless disregard for the truth proven by
11 clear and convincing evidence, there is immunity from claims based on
12 such a comparison document and its contents if the publisher of the
13 comparison document asked for such information from the carrier, was
14 refused, and relied on any usually reliable source for the information
15 including, but not limited to, carrier enrollees, customers, agents,
16 brokers, or providers. The carrier enrollees, customers, agents,
17 brokers, or providers are likewise immune from civil liability on
18 claims based on information they provided if they believed the
19 information to be accurate and had reasonable grounds for doing so.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.170 RCW
21 to read as follows:

22 Consistent with the data reporting requirements of the department
23 of health, each hospital licensed under chapter 70.41 RCW shall report
24 to the department of health annually with respect to its operations in
25 the preceding fiscal year, in such form as the department requires by
26 rule. The report shall include, but not be limited to: (1) Salaries,
27 by classification for each position in the hospital; (2) total number
28 of full-time equivalent employees employed under each classification;
29 (3) salaries and fringe benefits for the twenty highest paid
30 administrative positions; (4) the name of each corporation related to
31 the hospital; (5) the salaries paid to hospital employees by each
32 related corporation and by the hospital to the employees of related
33 corporations; and (6) a breakdown of facility and subfacility budgets
34 by administrative, supervisory, and direct service categories.

35 NEW SECTION. **Sec. 6.** Nothing in this act provides any private
36 right or cause of action to, or on behalf of, any enrollee, prospective
37 enrollee, employer, or other person, whether a resident or nonresident

1 of this state. Except for section 5 of this act, this act provides
2 solely an administrative remedy to the insurance commissioner for any
3 violation of Title 48 RCW or any related rule.

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