
Health Care Committee

HB 2360

Brief Description: Regulating negotiations between health providers and health carriers.

Sponsors: Representatives Conway, Campbell, Cody, Edwards, Wood and Schual-Berke.

Brief Summary of Bill

- In engaging in collective negotiations on the terms and conditions of contracts, health providers and health plans are required to negotiate in good faith.
- Negotiations on the terms and conditions of contracts includes reimbursement for provider services, and provides options for voluntary mediation and arbitration in case of impasse.

Hearing Date: 1/24/02

Staff: John Welsh (786-7133).

Background:

State law authorizes health providers through processes defined by rule of the Department of Health to collectively negotiate the terms and conditions of contracts with health plans, including the ability to meet and communicate for this purpose. This is a statutory legislative exemption from state anti-trust laws and provides immunity from federal anti-trust laws for a concerted activity that might be constrained by those laws. However, per se violations of state and federal anti-trust laws are not authorized.

In order to engage in collective negotiations, health providers must file a written petition with the department requesting approval, with the advice of the state attorney general, and the department must issue a written decision within 90 days whether the benefits of competition outweigh the advantages of negotiation. With the assistance of the attorney general, the department must actively supervise and periodically review the negotiations. The Secretary of Health must charge a fee, not exceeding \$10,000, for the filing of the petition, the opinion of the attorney general, and for the active supervision of negotiations, to defray the reasonable costs incurred in conducting the review.

By rule, reimbursement for provider services may not be the subject of negotiations.

There is no requirement for health providers and health plans to negotiate in good faith.

There is no provision for voluntary mediation or arbitration in case of impasse.

There is no express authority granted to the Insurance Commissioner to enforce any requirement of a health plan to negotiate in good faith.

Summary of Bill:

There is a declaration of legislative intent to retain the supply of health providers in this state and balance the bargaining power between health plans and health providers by requiring the parties to bargain in good faith on all the terms and conditions of contracts, including reimbursement of provider services.

The Department of Health must include, by rule, the requirement for health providers and health plans to negotiate in good faith.

Collective negotiations on the terms and conditions of contracts includes reimbursement for provider services.

Rules governing collective negotiations must also include options for voluntary mediation and arbitration.

Rules must also include an exclusion for state agencies and subdivisions from the requirements of collective negotiations.

The act is remedial and is to be construed to effect its purposes.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.