
SENATE BILL 6208

State of Washington

53rd Legislature

1994 Regular Session

By Senators Moore, Prince, Prentice, Amondson and McAuliffe; by request of Insurance Commissioner

Read first time 01/17/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to making form and rate filings of health
2 maintenance organizations and health care service contractors subject
3 to prior approval; and amending RCW 48.44.020, 48.44.070, 48.46.060,
4 and 48.46.243.

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

6 **Sec. 1.** RCW 48.44.020 and 1990 c 120 s 5 are each amended to read
7 as follows:

8 (1) Any health care service contractor may enter into contracts
9 with or for the benefit of persons or groups of persons which require
10 prepayment for health care services by or for such persons in
11 consideration of such health care service contractor providing one or
12 more health care services to such persons and such activity shall not
13 be subject to the laws relating to insurance if the health care
14 services are rendered by the health care service contractor or by a
15 participating provider.

16 (2) (~~The commissioner may on examination,~~) Such contracts and any
17 amendment, rider, or endorsement thereto shall not be issued,
18 delivered, or used until filed with and approved by the commissioner.

1 Rates or modification of rates for such health care service contracts
2 shall not be used until filed with and approved by the commissioner.

3 (3) A contract form not affirmatively disapproved within sixty days
4 of filing shall be deemed approved, except that the commissioner may
5 extend the approval period an additional fifteen days upon giving
6 notice before the expiration of the initial sixty-day period. The
7 commissioner may approve such a contract form for immediate use at any
8 time. Approval may be subsequently withdrawn for cause.

9 (4) The commissioner may, subject to the right of the health care
10 service contractor to demand and receive a hearing under chapters 48.04
11 and 34.05 RCW, disapprove any contract form for any of the following
12 grounds:

13 (a) If it contains or incorporates by reference any inconsistent,
14 ambiguous or misleading clauses, or exceptions and conditions which
15 unreasonably or deceptively affect the risk purported to be assumed in
16 the general coverage of the contract; or

17 (b) If it has any title, heading or other indication of its
18 provisions which is misleading; or

19 (c) If purchase of health care services thereunder is being
20 solicited by deceptive advertising; or

21 (d) If, the benefits provided therein are unreasonable in relation
22 to the amount charged for the contract;

23 (e) If it contains unreasonable restrictions on the treatment of
24 patients;

25 (f) If it violates any provision of (~~this chapter~~) applicable
26 state or federal law;

27 (g) If it fails to conform to minimum provisions or standards
28 required by (~~regulation made by the commissioner pursuant to~~) rule
29 adopted under chapter 34.05 RCW;

30 (h) If any contract for health care services with any state agency,
31 division, subdivision, board or commission or with any political
32 subdivision, municipal corporation, or quasi-municipal corporation
33 fails to comply with state law.

34 (~~(3)~~) (5)(a) Every contract between a health care service
35 contractor and a participating provider of health care services shall
36 be in writing and shall state that in the event the health care service
37 contractor fails to pay for health care services as provided in the
38 contract, the enrolled participant shall not be liable to the provider
39 for sums owed by the health care service contractor. Every such

1 contract shall provide that this requirement shall survive termination
2 of the contract.

3 (b) No participating provider, agent, trustee or assignee may
4 maintain any action against an enrolled participant to collect sums
5 owed by the health care service contractor.

6 **Sec. 2.** RCW 48.44.070 and 1990 c 120 s 9 are each amended to read
7 as follows:

8 (1) Forms of contracts between health care service contractors and
9 participating providers shall be filed with and approved by the
10 insurance commissioner prior to use.

11 (2) Any contract form not affirmatively disapproved within
12 (~~fifteen~~) sixty days of filing shall be deemed approved, except that
13 the commissioner may extend the approval period an additional fifteen
14 days upon giving notice before the expiration of the initial (~~fifteen-~~
15 ~~day~~) sixty-day period. The commissioner may approve such a contract
16 form for immediate use at any time. Approval may be subsequently
17 withdrawn for cause.

18 (3) Subject to the right of the health care service contractor to
19 demand and receive a hearing under chapters 48.04 and 34.05 RCW, the
20 commissioner may disapprove such a contract form if it is in any
21 respect in violation of this chapter or if it fails to conform to
22 minimum provisions or standards required by the commissioner by rule
23 under chapter 34.05 RCW.

24 **Sec. 3.** RCW 48.46.060 and 1989 c 10 s 10 are each amended to read
25 as follows:

26 (1) Any health maintenance organization may enter into agreements
27 with or for the benefit of persons or groups of persons, which require
28 prepayment for health care services by or for such persons in
29 consideration of the health maintenance organization providing health
30 care services to such persons. Such activity is not subject to the
31 laws relating to insurance if the health care services are rendered
32 directly by the health maintenance organization or by any provider
33 which has a contract or other arrangement with the health maintenance
34 organization to render health services to enrolled participants.

35 (2) Such agreements and any amendment, rider, or endorsement
36 thereto shall not be issued, delivered, or used until filed with and
37 approved by the commissioner. Rates or modification of rates for such

1 health maintenance agreements shall not be used until filed with and
2 approved by the commissioner.

3 (3) All forms of health maintenance agreements issued by the
4 organization to enrolled participants or other marketing documents
5 purporting to describe the organization's comprehensive health care
6 services shall comply with such minimum standards as the commissioner
7 deems reasonable and necessary in order to carry out the purposes and
8 provisions of this chapter, and which fully inform enrolled
9 participants of the health care services to which they are entitled,
10 including any limitations or exclusions thereof, and such other rights,
11 responsibilities and duties required of the contracting health
12 maintenance organization.

13 ~~((3))~~ (4) An agreement form rate or rate modification not
14 affirmatively disapproved within sixty days of filing shall be deemed
15 approved, except that the commissioner may extend the approval period
16 an additional fifteen days upon giving notice before the expiration of
17 the initial sixty-day period. The commissioner may approve the
18 agreement form for immediate use at any time. Approval may be
19 subsequently withdrawn for cause.

20 (5) Subject to the right of the health maintenance organization to
21 demand and receive a hearing under chapters 48.04 and 34.05 RCW, the
22 commissioner may disapprove an agreement form for any of the following
23 grounds:

24 (a) If it contains or incorporates by reference any inconsistent,
25 ambiguous, or misleading clauses, or exceptions or conditions which
26 unreasonably or deceptively affect the risk purported to be assumed in
27 the general coverage of the agreement;

28 (b) If it has any title, heading, or other indication which is
29 misleading;

30 (c) If purchase of health care services thereunder is being
31 solicited by deceptive advertising;

32 (d) If the benefits provided therein are unreasonable in relation
33 to the amount charged for the agreement;

34 (e) If it contains unreasonable restrictions on the treatment of
35 patients;

36 (f) If it is in any respect in violation of ~~((this chapter))~~
37 applicable state or federal law or if it fails to conform to minimum
38 provisions or standards required by ~~((the commissioner by rule under))~~
39 rule adopted under chapter 34.05 RCW; or

1 (g) If any agreement for health care services with any state
2 agency, division, subdivision, board or commission or with any
3 political subdivision, municipal corporation, or quasi-municipal
4 corporation fails to comply with state law.

5 (~~(6)~~) (5) No health maintenance organization authorized under
6 this chapter shall cancel or fail to renew the enrollment on any basis
7 of an enrolled participant or refuse to transfer an enrolled
8 participant from a group to an individual basis for reasons relating
9 solely to age, sex, race, or health status: PROVIDED HOWEVER, That
10 nothing contained herein shall prevent cancellation of an agreement
11 with enrolled participants (a) who violate any published policies of
12 the organization which have been approved by the commissioner, or (b)
13 who are entitled to become eligible for medicare benefits and fail to
14 enroll for a medicare supplement plan offered by the health maintenance
15 organization and approved by the commissioner, or (c) for failure of
16 such enrolled participant to pay the approved charge, including cost-
17 sharing, required under such contract, or (d) for a material breach of
18 the health maintenance agreement.

19 (~~(5)~~) (7) No agreement form or amendment to an approved agreement
20 form shall be used unless it is first filed with the commissioner.

21 **Sec. 4.** RCW 48.46.243 and 1990 c 119 s 7 are each amended to read
22 as follows:

23 (1) Subject to subsection (2) of this section, every contract
24 between a health maintenance organization and its participating
25 providers of health care services shall be in writing and shall set
26 forth that in the event the health maintenance organization fails to
27 pay for health care services as set forth in the agreement, the
28 enrolled participant shall not be liable to the provider for any sums
29 owed by the health maintenance organization. Every such contract shall
30 provide that this requirement shall survive termination of the
31 contract.

32 (2) The provisions of subsection (1) of this section shall not
33 apply to emergency care from a provider who is not a participating
34 provider, to out-of-area services or, in exceptional situations
35 approved in advance by the commissioner, if the health maintenance
36 organization is unable to negotiate reasonable and cost-effective
37 participating provider contracts.

1 (3)(a) Each participating provider contract form shall be filed
2 with and approved by the commissioner (~~((fifteen))~~) sixty days before it
3 is used.

4 (b) Any contract form not affirmatively disapproved within
5 (~~((fifteen))~~) sixty days of filing shall be deemed approved, except that
6 the commissioner may extend the approval period an additional fifteen
7 days upon giving notice before the expiration of the initial (~~((fifteen-~~
8 ~~day))~~) sixty-day period. The commissioner may approve such a contract
9 form for immediate use at any time. Approval may be subsequently
10 withdrawn for cause.

11 (c) Subject to the right of the health maintenance organization to
12 demand and receive a hearing under chapters 48.04 and 34.05 RCW, the
13 commissioner may disapprove such a contract form if it is in any
14 respect in violation of this chapter or if it fails to conform to
15 minimum provisions or standards required by the commissioner by rule
16 under chapter 34.05 RCW.

17 (4) No participating provider, or agent, trustee, or assignee
18 thereof, may maintain an action against an enrolled participant to
19 collect sums owed by the health maintenance organization.

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