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SHB 1046 - H AMD **FAILED 2/10/95 052**
By Representatives Dellwo and others

On page 8, beginning on line 6, strike

"(55) RCW 48.43.170 and 1993 c 492 s 431;"

Renumber the remaining subsections consecutively.

EFFECT: Strikes "Health care providers--Opportunity for inclusion" repealer. If adopted the Health care providers--Opportunity for inclusion provision of the Washington Health Services Act of 1993 would be maintained in statute. [See text below.]

RCW 48.43.170 Health care providers--Opportunity for inclusion. (1) Balancing the need for health care reform and the need to protect health care providers, as a class and as individual providers, from improper exclusion presents a problem that can be satisfied with the creation of a process to ensure fair consideration of the inclusion of health care providers in managed care systems operated by certified health plans. It is therefore the intent of the legislature that the health services commission in developing rules in accordance with this section and the attorney general in monitoring the level of competition in the various geographic markets, balance the need for cost-effective and quality delivery of health services with the need for inclusion of both individual health care providers and categories of health care providers in managed care programs developed by certified health plans.

(2) All licensed health care providers licensed by the state, irrespective of the type or kind of practice, should be afforded the opportunity for inclusion in certified health plans consistent with the goals of health care reform.

The health services commission shall adopt rules requiring certified health plans to publish general criteria for the plan's selection or termination of health care providers. Such rules shall not require the disclosure of criteria deemed by the plan to be of a proprietary or competitive nature that would hurt the plan's ability to compete or to manage health services. Disclosure of criteria is proprietary or anticompetitive if revealing the criteria would have the tendency to cause health care providers to alter their practice pattern in a manner that would harm efforts to contain health care costs and is proprietary if revealing the criteria would cause the plan's competitors to obtain valuable business information.

If a certified health plan uses unpublished criteria to judge the quality and cost-effectiveness of a health care provider's practice under any specific program within the plan, the plan may not reject or terminate the provider participating in that program based upon such criteria until the provider has been informed of the criteria that his or her practice fails to meet and is given a reasonable opportunity to conform to such criteria.

(3)(a) Whenever a determination is made under (b) of this subsection that a plan's share of the market reaches a point where the plan's exclusion of health care providers from a program of the plan would result in the substantial inability of providers to continue their practice thereby unreasonably restricting consumer access to needed health services, the certified health plan must allow all providers within the affected market to participate in the programs of the certified health plan. All such providers must meet the published criteria and requirements of the programs.

(b) The attorney general with the assistance of the insurance commissioner shall periodically analyze the market power of certified health plans to determine when the market share of any program of a certified health plan reaches a point where the plan's exclusion of health service providers from a program of the plan would result in the substantial inability of providers to continue their practice thereby unreasonably restricting consumer access to needed health services. In analyzing the market power of a certified health plan, the attorney general shall consider:

(i) The ease with which providers may obtain contracts with other plans;

(ii) The amount of the private pay and government employer business that is controlled by the certified health plan taking into account the selling of its provider network to self-insured employer plans;

(iii) The difficulty in establishing new competing plans in the relevant geographic market; and

(iv) The sufficiency of the number or type of providers under contract with the plan available to meet the needs of plan enrollees.

Notwithstanding the provisions of this subsection, if the certified health plan demonstrates to the satisfaction of the attorney general and the health services commission that health service utilization data and similar information shows that the inclusion of additional health service providers would substantially lessen the plan's ability to control health care costs and that the plan's procedures for selection of providers are not improperly exclusive of providers, the plan need not include additional providers within the plan's program.

(4) The health services commission shall adopt rules for the resolution of disputes between providers and certified health plans including disputes regarding the decision of a plan not to include the services of a provider.

(5) Nothing contained in this section shall be construed to require a plan to allow or continue the participation of a provider if the plan is a federally qualified health maintenance organization and the participation of the provider or providers would prevent the health maintenance organization from operating as a health maintenance organization in accordance with 42 U.S.C. Sec. 300e. [1993 c 492 ú 431.]