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HOUSE BILL 2791

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Kirby and Roach

Read first time 01/13/2006. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to regulating insurance overpayment recovery  
2 practices; and amending RCW 48.43.600 and 48.43.605.

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

4 **Sec. 1.** RCW 48.43.600 and 2005 c 278 s 1 are each amended to read  
5 as follows:

6 (1) Except in the case of fraud, or as provided in subsections (2)  
7 and (3) of this section, a carrier may not: (a) Request a refund from  
8 a health care provider of a payment previously made to satisfy a claim  
9 unless it does so in writing to the provider within twenty-four months  
10 after the date that the payment was made; or (b) request that a  
11 contested refund be paid any sooner than six months after receipt of  
12 the request. Any such request must specify why the carrier believes  
13 the provider owes the refund. If a provider fails to contest the  
14 request in writing to the carrier within thirty days of its receipt,  
15 the request is deemed accepted and the refund must be paid.

16 (2) A carrier may not, if doing so for reasons related to  
17 coordination of benefits with another carrier or entity responsible for  
18 payment of a claim: (a) Request a refund from a health care provider  
19 of a payment previously made to satisfy a claim unless it does so in

1 writing to the provider within thirty months after the date that the  
2 payment was made; or (b) request that a contested refund be paid any  
3 sooner than six months after receipt of the request. Any such request  
4 must specify why the carrier believes the provider owes the refund, and  
5 include the name and mailing address of the entity that has primary  
6 responsibility for payment of the claim. If a provider fails to  
7 contest the request in writing to the carrier within thirty days of its  
8 receipt, the request is deemed accepted and the refund must be paid.

9 (3) A carrier may at any time request a refund from a health care  
10 provider of a payment previously made to satisfy a claim if: (a) A  
11 third party, including a government entity, is found responsible for  
12 satisfaction of the claim as a consequence of liability imposed by law,  
13 such as tort liability; and (b) the carrier is unable to recover  
14 directly from the third party because the third party has either  
15 already paid or will pay the provider for the health services covered  
16 by the claim.

17 (4) If a contract between a carrier and a health care provider  
18 conflicts with this section, this section shall prevail. However, (a)  
19 nothing in this section precludes a mutual agreement between a carrier  
20 and a health care provider from including periods of limitation shorter  
21 than those set forth in subsections (1)(a) and (2)(a) of this section  
22 or limits the enforceability of the shorter periods of limitation; and  
23 (b) nothing in this section prohibits a health care provider from  
24 choosing at any time to refund to a carrier any payment previously made  
25 to satisfy a claim.

26 (5) For purposes of this section, "refund" means the return, either  
27 directly or through an offset to a future claim, of some or all of a  
28 payment already received by a health care provider.

29 (6) This section neither permits nor precludes a carrier from  
30 recovering from a subscriber, enrollee, or beneficiary any amounts paid  
31 to a health care provider for benefits to which the subscriber,  
32 enrollee, or beneficiary was not entitled under the terms and  
33 conditions of the health plan, insurance policy, or other benefit  
34 agreement.

35 (7) This section does not apply to claims for health care services  
36 provided through dental-only health carriers, health care services  
37 provided under Title XVIII (medicare) of the social security act, or  
38 medicare supplemental plans regulated under chapter 48.66 RCW.

1       **Sec. 2.** RCW 48.43.605 and 2005 c 278 s 2 are each amended to read  
2 as follows:

3       (1) Except in the case of fraud, or as provided in subsection (2)  
4 of this section, a health care provider may not: (a) Request  
5 additional payment from a carrier to satisfy a claim unless he or she  
6 does so in writing to the carrier within twenty-four months after the  
7 date that the claim was denied or payment intended to satisfy the claim  
8 was made; or (b) request that the additional payment be made any sooner  
9 than six months after receipt of the request. Any such request must  
10 specify why the provider believes the carrier owes the additional  
11 payment.

12       (2) A health care provider may not, if doing so for reasons related  
13 to coordination of benefits with another carrier or entity responsible  
14 for payment of a claim: (a) Request additional payment from a carrier  
15 to satisfy a claim unless he or she does so in writing to the carrier  
16 within thirty months after the date the claim was denied or payment  
17 intended to satisfy the claim was made; or (b) request that the  
18 additional payment be made any sooner than six months after receipt of  
19 the request. Any such request must specify why the provider believes  
20 the carrier owes the additional payment, and include the name and  
21 mailing address of any entity that has disclaimed responsibility for  
22 payment of the claim.

23       (3) If a contract between a carrier and a health care provider  
24 conflicts with this section, this section shall prevail. However, (a)  
25 nothing in this section precludes a mutual agreement between a carrier  
26 and a health care provider from including periods of limitation shorter  
27 than those set forth in subsections (1)(a) and (2)(a) of this section  
28 or limits the enforceability of the shorter periods of limitation; and  
29 (b) nothing in this section prohibits a carrier from choosing at any  
30 time to make additional payments to a provider to satisfy a claim.

31       (4) This section does not apply to claims for health care services  
32 provided through dental-only health carriers, health care services  
33 provided under Title XVIII (medicare) of the social security act, or  
34 medicare supplemental plans regulated under chapter 48.66 RCW.

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