

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 174

BY EDUCATION COMMITTEE

AN ACT

RELATING TO THE MANAGED HEALTH CARE REFORM ACT; AMENDING SECTION 41-3927, IDAHO CODE, TO PROVIDE CERTAIN CONTRACTUAL OBLIGATIONS OF A MANAGED CARE ORGANIZATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-3927, Idaho Code, be, and the same is hereby amended to read as follows:

41-3927. HEALTH CARE PROVIDERS – PARTICIPATION BY ANY QUALIFIED, WILLING PROVIDER – CONTRACTS – GRIEVANCE PROCEDURE. (1) Any managed care organization issuing benefits pursuant to the provisions of this chapter shall be ready and willing at all times to enter into care provider service agreements with all qualified providers of the category or categories which are necessary to provide the health care services covered by an organization if the health care providers: are qualified under the laws of the state of Idaho, desire to become participant providers of the organization, meet the requirements of the organization, and practice within the general area served by the organization.

(2) Nothing in this section shall preclude an organization from refusing to contract with a provider who is unqualified or who does not meet the terms and conditions of the organization’s participating provider contract or from terminating or refusing to renew the contract of a health care provider who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating provider contract including, but not limited to, practice standards and quality requirements. The contract shall provide for written notice to the participating health care provider setting forth any breach of contract for which the organization proposes that the contract be terminated or not renewed and shall provide for a reasonable period of time for the participating health care provider to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the organization proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, if a managed care organization contracts with a group or network of providers or any other organization to act as its contracting agent and such group, network or organization does not comply with the requirements in subsection (1) of this section, then the managed care organization may not decline to contract with a qualified Idaho licensed and regulated hospital on the grounds that such hospital is not under contract with the contracting group, network or organization or does not offer all of the services obtained through the contracting group, network or organization.

1           (4) Every managed care organization issuing benefits pursuant to this chapter shall  
2 establish a grievance system for providers. Such grievance system shall provide for arbitration  
3 according to chapter 9, title 7, Idaho Code, or for such other system which provides reasonable  
4 due process provisions for the resolution of grievances and the protection of the rights of the  
5 parties.

6           (4~~5~~) No managed care organization may require as an element of any provider contract  
7 that any person agree:

8           (a) To deny a member access to services not covered by the managed care plan if the  
9 member is informed that he will be responsible to pay for the noncovered services and the  
10 member nonetheless desires to obtain such services;

11           (b) To refrain from treating a member even at that member's request and expense if  
12 the provider had been, but is no longer, a contracting provider under the managed care  
13 plan and the provider has notified the member that the provider is no longer a contracting  
14 provider under the managed care plan;

15           (c) To the unnegotiated adjustment by the managed care organization of the provider's  
16 contractual reimbursement rate to equal the lowest reimbursement rate the provider has  
17 agreed to charge any other payor;

18           (d) To a requirement that the provider adjust, or enter into negotiations to adjust, his  
19 or her charges to the managed care organization if the provider agrees to charge another  
20 payor lower rates; or

21           (e) To a requirement that the provider disclose his or her contractual reimbursement rates  
22 from other payors.

23           (5~~6~~) A managed care organization shall not refuse to contract with or compensate for  
24 covered services an otherwise eligible provider or nonparticipating provider solely because the  
25 provider has in good faith communicated with one (1) or more current, former, or prospective  
26 patient regarding the provisions, terms or requirements of the organization's products as they  
27 relate to the needs of the provider's patients.

28           (6~~7~~) As part of a provider contract, a managed care organization may require a provider  
29 to indemnify and hold harmless the managed care organization under certain circumstances so  
30 long as the managed care organization also agrees to indemnify and hold harmless the provider  
31 under comparable circumstances.

32           (7~~8~~) On request and within a reasonable time, a managed care organization shall make  
33 available to any party to a provider contract any documents referred to or adopted by reference  
34 in the contract except for information which is proprietary or a trade secret or confidential  
35 personnel records.

36           (8~~9~~) A managed care organization shall permit a contracting provider who is practicing  
37 in conformity with community standards to advocate for his patient without being subject to  
38 termination or penalty for the sole reason of such advocacy.

39           (9~~10~~) Subsections (1) and (2) of this section shall apply to provider participation  
40 contracts entered into after July 1, 1994.