

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 528

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-2872, IDAHO CODE, TO PROVIDE  
2 CERTAIN CONTRACTUAL OBLIGATIONS OF AN INSURANCE COMPANY ISSUING  
3 BENEFITS PURSUANT TO CHAPTER 28, TITLE 41, IDAHO CODE; AND AMENDING  
4 SECTION 41-3927, IDAHO CODE, TO PROVIDE CERTAIN CONTRACTUAL  
5 OBLIGATIONS OF A MANAGED CARE ORGANIZATION.  
6

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

8 SECTION 1. That Section 41-2872, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 41-2872. HEALTH CARE PROVIDER CONTRACTS -- GRIEVANCE PROCEDURE. (1)  
11 Any stock or mutual insurer (hereinafter insurance company) issuing  
12 benefits pursuant to the provisions of this chapter shall be ready and  
13 willing at all times to enter into health care provider service contracts  
14 with all qualified health care providers of the category or categories  
15 which are necessary to provide the health care services covered by the  
16 insurance company's policy of insurance if such health care providers: are  
17 qualified under the laws of the state of Idaho, desire to become participant  
18 health care providers of the insurance company, meet the requirements of  
19 the insurance company, and practice within the general area served by the  
20 insurance company.

21 (2) Nothing in this section shall preclude an insurance company from  
22 refusing to contract with a health care provider who is unqualified or  
23 who does not meet the terms and conditions of the participating provider  
24 contract of the insurance company or from terminating or refusing to renew  
25 the contract of a participating health care provider who is unqualified  
26 or who does not comply with, or who refuses to comply with, the terms and  
27 conditions of the participating health care provider contract including,  
28 but not limited to, practice standards and quality requirements. The  
29 contract shall provide for written notice to the participating health  
30 care provider setting forth any breach of contract for which the insurance  
31 company proposes that the contract be terminated or not renewed and shall  
32 provide for a reasonable period of time for the participating health care  
33 provider to cure such breach prior to termination or nonrenewal. If the  
34 breach has not been cured within such period of time the contract may be  
35 terminated or not renewed. Provided however, that if the breach of contract  
36 for which the insurance company proposes that the contract be terminated or  
37 not renewed is a willful breach, fraud or a breach which poses an immediate  
38 danger to the public health or safety, the contract may be terminated or not  
39 renewed immediately.

40 (3) Every insurance company issuing benefits pursuant to this chapter  
41 shall establish a grievance system for health care providers. Such  
42 grievance system shall provide for arbitration according to chapter 9, title

1 7, Idaho Code, or for such other system which provides reasonable due process  
2 provisions for the resolution of grievances and the protection of the rights  
3 of the parties.

4 (4) Subsections (1) and (2) of this section shall apply to health care  
5 provider participation contracts entered into after July 1, 1994.

6 (5) Every insurance company issuing benefits pursuant to this chapter  
7 shall not refuse to contract with an otherwise qualified health care  
8 provider solely because the health care provider: (a) is not a member of  
9 a group, network or any other organization of providers contracting with  
10 the insurance company; or (b) does not offer all of the services obtained  
11 through the group, network or organization of providers contracting with the  
12 insurance company.

13 SECTION 2. That Section 41-3927, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 41-3927. HEALTH CARE PROVIDERS -- PARTICIPATION BY ANY QUALIFIED,  
16 WILLING PROVIDER -- CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any managed care  
17 organization issuing benefits pursuant to the provisions of this chapter  
18 shall be ready and willing at all times to enter into care provider service  
19 agreements with all qualified providers of the category or categories which  
20 are necessary to provide the health care services covered by an organization  
21 if the health care providers: are qualified under the laws of the state of  
22 Idaho, desire to become participant providers of the organization, meet  
23 the requirements of the organization, and practice within the general area  
24 served by the organization.

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

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

1 (4) No managed care organization may require as an element of any  
2 provider contract that any person agree:

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

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

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

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

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

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

27 (6) A managed care organization shall not refuse to contract with an  
28 otherwise eligible provider solely because the provider: (a) is not a member  
29 of a group, network or any other organization of providers contracting  
30 with the managed care organization; or (b) does not offer all of the  
31 services obtained through the group, network or organization of providers  
32 contracting with the managed care organization.

33 (7) As part of a provider contract, a managed care organization  
34 may require a provider to indemnify and hold harmless the managed care  
35 organization under certain circumstances so long as the managed care  
36 organization also agrees to indemnify and hold harmless the provider under  
37 comparable circumstances.

38 (78) On request and within a reasonable time, a managed care  
39 organization shall make available to any party to a provider contract  
40 any documents referred to or adopted by reference in the contract except for  
41 information which is proprietary or a trade secret or confidential personnel  
42 records.

43 (89) A managed care organization shall permit a contracting provider  
44 who is practicing in conformity with community standards to advocate for his  
45 patient without being subject to termination or penalty for the sole reason  
46 of such advocacy.

47 (910) Subsections (1) and (2) of this section shall apply to provider  
48 participation contracts entered into after July 1, 1994.