

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 565

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-2872, IDAHO CODE, TO REVISE AND
2 TO PROVIDE ADDITIONAL CONTRACTUAL OBLIGATIONS OF CERTAIN INSURANCE
3 COMPANIES AND TO PROVIDE AN EXEMPTION; AND AMENDING SECTION 41-3927,
4 IDAHO CODE, TO REVISE AND TO PROVIDE ADDITIONAL CONTRACTUAL OBLIGATIONS
5 OF MANAGED CARE ORGANIZATIONS AND TO PROVIDE AN EXEMPTION.
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 bene-
12 fits pursuant to the provisions of this chapter shall be ready and willing
13 at all times to enter into health care provider service contracts with all
14 qualified health care providers of the category or categories which are
15 necessary to provide the health care services covered by the insurance com-
16 pany's policy of insurance if such health care providers: are qualified
17 under the laws of the state of Idaho, desire to become participant health
18 care providers of the insurance company, meet the requirements of the insur-
19 ance company, and practice within the general area served by the insurance
20 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 not~~
23 qualified or who does not meet the terms and conditions of the participating
24 provider contract of the insurance company or with regard to practice stan-
25 standards and quality requirements only. Nothing in this section shall preclude
26 an insurance company from terminating or refusing to renew the contract of
27 a participating health care provider who is ~~unqualified no longer qualified~~
28 or who does not comply with, or who refuses to comply with, the terms and
29 conditions of the participating health care provider contract ~~including,~~
30 but not limited with regard to, practice standards and quality requirements
31 only. The contract shall provide for written notice to the participating
32 health care provider setting forth any breach of contract for which the in-
33 surance company proposes that the contract be terminated or not renewed and
34 shall provide for a reasonable period of time for the participating health
35 care provider to cure such breach prior to termination or nonrenewal. If the
36 breach has not been cured within such period of time the contract may be ter-
37 minated or not renewed. Provided however, ~~that~~ if the breach of contract for
38 which the insurance company proposes that the contract be terminated or not
39 renewed is a willful breach, fraud or a breach ~~which~~ that poses an immediate
40 danger to the public health or safety, the contract may be terminated or not
41 renewed immediately.

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

7 (4) Insurance companies issuing benefits pursuant to the provisions of
 8 this chapter shall not terminate a contract, refuse to renew a contract or
 9 refuse to contract with an otherwise qualified health care provider solely
 10 on the basis that the health care provider is not a member of a group, net-
 11 work or any other organization of providers contracting with the insurance
 12 company. Insurance companies shall not terminate a contract, refuse to re-
 13 new a contract or refuse to contract with an otherwise qualified health care
 14 provider based solely on the type of services that the otherwise qualified
 15 health care provider does or does not provide.

16 (5) This section shall be applied consistent with the provisions of
 17 section 514 of the employee retirement income security act of 1974, 29
 18 U.S.C. section 1144 (b) (2) (B), whereby self-insured employee benefit plans,
 19 including those plans covered by stop-loss insurance policies, are not gov-
 20 erned by this section and are explicitly exempt from the requirements of this
 21 section.

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

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

26 41-3927. HEALTH CARE PROVIDERS -- PARTICIPATION BY ANY QUALIFIED,
 27 WILLING PROVIDER -- CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any managed care
 28 organization issuing benefits pursuant to the provisions of this chapter
 29 shall be ready and willing at all times to enter into care provider service
 30 agreements with all qualified providers of the category or categories which
 31 are necessary to provide the health care services covered by an organization
 32 if the health care providers: are qualified under the laws of the state of
 33 Idaho, desire to become participant providers of the organization, meet
 34 the requirements of the organization, and practice within the general area
 35 served by the organization.

36 (2) Nothing in this section shall preclude an organization from re-
 37 fusing to contract with a provider who is ~~unqualified~~ not qualified or who
 38 does not meet the terms and conditions of the organization's participating
 39 provider contract ~~or~~ with regard to practice standards and quality require-
 40 ments only. Nothing in this section shall preclude an organization from
 41 terminating or refusing to renew the contract of a health care provider who
 42 is ~~unqualified~~ no longer qualified or who does not comply with, or who re-
 43 fuses to comply with, the terms and conditions of the participating provider
 44 contract including, but not limited with regard to, practice standards and
 45 quality requirements only. The contract shall provide for written notice to
 46 the participating health care provider setting forth any breach of contract
 47 for which the organization proposes that the contract be terminated or not
 48 renewed and shall provide for a reasonable period of time for the partic-
 49 ipating health care provider to cure such breach prior to termination or

1 nonrenewal. If the breach has not been cured within such period of time the
2 contract may be terminated or not renewed. Provided however, ~~that~~ if the
3 breach of contract for which the organization proposes that the contract be
4 terminated or not renewed is a willful breach, fraud or a breach which that
5 poses an immediate danger to the public health or safety, the contract may be
6 terminated or not renewed immediately.

7 (3) Every managed care organization issuing benefits pursuant to this
8 chapter shall establish a grievance system for providers. Such grievance
9 system shall provide for arbitration according to chapter 9, title 7, Idaho
10 Code, or for such other system which provides reasonable due process provi-
11 sions for the resolution of grievances and the protection of the rights of
12 the parties.

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

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

19 (b) To refrain from treating a member even at that member's request
20 and expense if the provider had been, but is no longer, a contracting
21 provider under the managed care plan and the provider has notified the
22 member that the provider is no longer a contracting provider under the
23 managed care plan;

24 (c) To the unnegotiated adjustment by the managed care organization of
25 the provider's contractual reimbursement rate to equal the lowest reim-
26 bursement rate the provider has agreed to charge any other payor;

27 (d) To a requirement that the provider adjust, or enter into negotia-
28 tions to adjust, his or her charges to the managed care organization if
29 the provider agrees to charge another payor lower rates; or

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

32 (5) A managed care organization shall not refuse to contract with or
33 compensate for covered services an otherwise eligible provider or nonpar-
34 ticipating provider solely because the provider has in good faith communi-
35 cated with one (1) or more current, former, or prospective patient regarding
36 the provisions, terms or requirements of the organization's products as they
37 relate to the needs of the provider's patients.

38 (6) A managed care organization shall not terminate a contract, refuse
39 to renew a contract or refuse to contract with an otherwise qualified health
40 care provider solely on the basis that the health care provider is not a mem-
41 ber of a group, network or any other organization of providers contracting
42 with the managed care organization. A managed care organization shall not
43 terminate a contract, refuse to renew a contract or refuse to contract with
44 an otherwise qualified health care provider based solely on the type of ser-
45 vices that the qualified health care provider does or does not provide.

46 (7) As part of a provider contract, a managed care organization may
47 require a provider to indemnify and hold harmless the managed care organi-
48 zation under certain circumstances so long as the managed care organization
49 also agrees to indemnify and hold harmless the provider under comparable
50 circumstances.

1 (78) On request and within a reasonable time, a managed care organiza-
2 tion shall make available to any party to a provider contract any documents
3 referred to or adopted by reference in the contract except for information
4 which is proprietary or a trade secret or confidential personnel records.

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

9 (10) This section shall be applied consistent with the provisions
10 of section 514 of the employee retirement income security act of 1974, 29
11 U.S.C. section 1144 (b) (2) (B), whereby self-insured employee benefit plans,
12 including those plans covered by stop-loss insurance policies, are not gov-
13 erned by this section and are explicitly exempt from the requirements of this
14 section.

15 (911) Subsections (1) and (2) of this section shall apply to provider
16 participation contracts entered into after July 1, 1994.