

By: Goodman

H.B. No. 648

A BILL TO BE ENTITLED

AN ACT

relating to standard physician contract forms for use in managed care plans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.52P to read as follows:

Art. 21.52P. STANDARD MANAGED CARE CONTRACTS FOR PHYSICIANS

Sec. 1. DEFINITIONS. In this article:

(1) "Managed care entity" means an entity described by Section 2 of this article that issues a managed care plan.

(2) "Managed care plan" means a health benefit plan:

(A) under which health care services are provided to enrollees through contracts with physicians, other health care professionals, or health care facilities; and

(B) that provides financial incentives to enrollees in the plan to use participating physicians, health care professionals, and facilities.

Sec. 2. APPLICABILITY OF ARTICLE. This article applies to a health maintenance organization, a preferred provider organization, an approved nonprofit health corporation that holds a certificate of authority under Chapter 844 of this code, and any other entity that issues a managed care plan, including:

(1) an insurance company;

(2) a group hospital service corporation operating

1 under Chapter 842 of this code;

2 (3) a fraternal benefit society operating under
3 Chapter 885 of this code; or

4 (4) a stipulated premium insurance company operating
5 under Chapter 884 of this code.

6 Sec. 3. STANDARD PHYSICIAN CONTRACTS. (a) Except as
7 provided by Subsection (c) of this section, the commissioner, in
8 consultation with the contract advisory panel, shall adopt rules
9 that:

10 (1) establish standard contract forms for use by
11 managed care entities in entering into contracts with physicians;
12 and

13 (2) require managed care entities to use those
14 contracts.

15 (b) A contract form adopted under this section:

16 (1) may not waive a provision of state or federal law,
17 including a provision required by this article; and

18 (2) must allow a dispute under the contract to be
19 resolved:

20 (A) through multiparty arbitration;

21 (B) through an action brought by an affected
22 physician in small claims court, up to the limits of the court's
23 jurisdiction; or

24 (C) through both actions authorized under
25 Paragraphs (A) and (B) of this subdivision.

26 (c) A managed care entity or a physician may use a contract
27 form other than a form required under Subsection (a) of this section

1 that:

2 (1) the physician asks to be used;

3 (2) the physician and the managed care entity prepare
4 with equal representation;

5 (3) the physician and the managed care entity mutually
6 agree may be used; and

7 (4) would not cause a managed care entity to violate
8 Section 5 of this article.

9 (d) The terms of a contract form adopted under Subsection
10 (a) of this section and entered into by a physician and a managed
11 care entity may not be subsequently modified unless the
12 modification is agreed to by the physician and the managed care
13 entity.

14 (e) A contract form adopted under Subsection (a) of this
15 section must:

16 (1) provide that the terms of the contract may not be
17 tied to, modified by, or superseded by a providers' manual or other
18 document that may be amended at the pleasure of the managed care
19 entity;

20 (2) provide that any change in the contract must be
21 disclosed to all parties; and

22 (3) identify all payers under the contract.

23 (f) A contract form subject to this article must require the
24 use of a standardized explanation of benefits, to be available both
25 electronically and in writing. The standardized explanation must
26 include:

27 (1) the patient account number;

1 (2) the type of health care service or product
2 provided;

3 (3) the payment amount for the health care service or
4 product provided, listed by:

5 (A) the code assigned to the health care service
6 provided under the latest edition of "Current Procedural
7 Terminology," as published by the American Medical Association; or

8 (B) detail line; and

9 (4) the contract or network origin of any discount.

10 (g) A contract form subject to this article must require the
11 adoption and use of standardized:

12 (1) patient referral forms; and

13 (2) preauthorization or precertification forms.

14 Sec. 4. CONTRACT ADVISORY PANEL; MEMBERSHIP. (a) The
15 contract advisory panel is established as an advisory panel to the
16 commissioner to advise and make recommendations to the commissioner
17 regarding the adoption of standard contract forms under Section 3
18 of this article.

19 (b) The advisory panel is composed of nine members appointed
20 jointly by the lieutenant governor and the speaker of the house of
21 representatives as follows:

22 (1) two attorneys who primarily represent actively
23 practicing physicians;

24 (2) two attorneys who primarily represent insurers,
25 health maintenance organizations, or health plans;

26 (3) one individual who serves as manager for
27 independently practicing physicians;

1 (4) one physician actively engaged in the independent
2 practice of medicine in this state;

3 (5) one individual who serves as medical director for
4 an insurer, health maintenance organization, or health plan;

5 (6) one individual who serves as a provider relations
6 director or contract manager for an insurer, health maintenance
7 organization, or health plan; and

8 (7) one individual who represents consumers.

9 (c) The consumer representative on the advisory panel may
10 not:

11 (1) receive any compensation from or be employed
12 directly or indirectly by a physician, health care provider,
13 insurer, health maintenance organization, or other health benefit
14 plan issuer;

15 (2) be a health care provider; or

16 (3) be a person required to register as a lobbyist
17 under Chapter 305, Government Code, because of the person's
18 activities for compensation on behalf of a profession related to
19 the operation of the advisory panel.

20 (d) Members of the advisory panel serve without
21 compensation and at the will of the lieutenant governor and the
22 speaker of the house of representatives.

23 Sec. 5. CERTAIN DISCRIMINATION PROHIBITED. A managed care
24 entity may not:

25 (1) discriminate against a physician who uses a
26 standard contract form adopted under this article;

27 (2) require or use reimbursement differentials or

1 financial incentives that penalize or place a physician at a
2 disadvantage based in whole or in part on the use of a standard
3 contract form adopted under this article; or

4 (3) require a physician to waive the use of a standard
5 contract form adopted under this article.

6 Sec. 6. EFFECT OF VIOLATION. (a) A violation of this
7 article or a rule adopted under this article by a managed care
8 entity constitutes an unfair or deceptive act or practice in the
9 business of insurance for the purposes of Article 21.21 of this code
10 and a violation of Article 21.21A of this code.

11 (b) The commissioner may suspend or revoke a managed care
12 entity's license or other authority to engage in the business of
13 insurance in this state if the commissioner determines that the
14 managed care entity has failed to use a contract form the use of
15 which is required under this article.

16 SECTION 2. Not later than June 1, 2004, the commissioner of
17 insurance shall adopt the rules and forms required by Section 3,
18 Article 21.52P, Insurance Code, as added by this Act.

19 SECTION 3. Unless an exception applies, a managed care
20 entity shall use a standard contract form adopted under Section 3,
21 Article 21.52P, Insurance Code, as added by this Act, for any
22 contract between the managed care entity and a physician signed or
23 renewed on or after January 1, 2005.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2003.