As Introduced

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H. B. No. 589

Representative Mathews, A.

To amend sections 3963.01 and 3963.04 of the Revised Code regarding material amendments to contracts between health insurers and health care providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3963.01 and 3963.04 of the Revised Code be amended to read as follows:

Sec. 3963.01. As used in this chapter:

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(C) "Covered vision services" means vision care services or vision care materials for which a reimbursement is available under an enrollee's health care contract, or for which a reimbursement would be available but for the application of contractual limitations, such as a deductible, copayment,

coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or any other limitation.

(D) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.

(E) "Covered dental services" means dental care services for which reimbursement is available under an enrollee's health care contract, or for which a reimbursement would be available but for the application of contractual limitations, such as a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or any other limitation.

(F) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.

(G) "Dental care provider" means a dentist licensed under Chapter 4715. of the Revised Code. "Dental care provider" does not include a dental hygienist licensed under Chapter 4715. of the Revised Code.

(H) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:

(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;

(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;

(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.

(I) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of health and human services pursuant to the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as those electronic standards are applicable to the parties and as those electronic standards are updated from time to time, and to electronically transmit those claims to the appropriate contracting entity, payer, or third-party administrator.

(J) "Enrollee" means any person eligible for health care benefits under a health benefit plan, including an eligible recipient of medicaid, and includes all of the following terms:

(1) "Enrollee" and "subscriber" as defined by section 1751.01 of the Revised Code;

(2) "Member" as defined by section 1739.01 of the Revised Code;

(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;

(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.

(K) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health

care services to enrollees.

(L) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.

(M) "Material amendment" means an amendment to a health care contract, including an amendment to any program, policy, or procedure of the contracting entity that is applicable to participating providers under the health care contract, that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:

(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;

(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;

(4) Changes to an existing prior authorization, precertification, notification, or referral program that do not substantially increase the provider's administrative expense;

(5) Changes to an edit program or to specific edits if the participating provider is provided notice of the changes

pursuant to division (A)(1) of section 3963.04 of the Revised Code and the notice includes information sufficient for the provider to determine the effect of the change;

(6) Changes to a health care contract described in division (B) of section 3963.04 of the Revised Code.

(N) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(O) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.

(P) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.

(Q) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.

(R) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(1) A health maintenance organization or other product provided by a health insuring corporation;

(2) A preferred provider organization;

(3) Medicare;

(4) Medicaid;

(5) Workers' compensation.

(S) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice registered nurse, occupational therapist, massage therapist, physical therapist, licensed professional counselor, licensed professional clinical counselor, hearing aid dealer, orthotist, prosthetist, home health agency, hospice care program, pediatric respite care program, or hospital, or a provider organization or physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts.

"Provider" does not mean either of the following:

(1) A nursing home;

(2) A provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(T) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(U) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised

Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(V) "Vision care materials" includes lenses, devices containing lenses, prisms, lens treatments and coatings, contact lenses, orthopics, vision training, and any prosthetic device necessary to correct, relieve, or treat any defect or abnormal condition of the human eye or its adnexa.

(W) "Vision care provider" means either of the following:

(1) An optometrist licensed under Chapter 4725. of the Revised Code;

(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

Sec. 3963.04. (A)(1) If an amendment to a health care contract is not a material amendment, the contracting entity shall provide the participating provider notice of the amendment at least fifteen days prior to the effective date of the amendment. The contracting entity shall provide all other notices to the participating provider pursuant to the health care contract.

(2) ~~A material amendment~~ If an amendment to a health care contract ~~shall occur only if~~ is a material amendment, the contracting entity ~~provides~~ shall provide to the participating provider the proposed material amendment in writing and notice of the proposed material amendment not later than ninety days prior to the effective date of the proposed material amendment. The notice shall be conspicuously entitled "Notice of Material Amendment to Contract."

(3) If within ~~fifteen~~ thirty days after receiving the

proposed material amendment and notice described in division (A)(2) of this section, the participating provider objects in writing to the proposed material amendment, the contracting entity and ~~there is no resolution of~~ the participating provider shall confer within thirty days of the notice of objection in an effort to resolve the objection~~, either party may terminate the health care contract upon written notice of termination provided to the other party not later than sixty days prior to the effective date of the~~. The proposed material amendment shall not be effective unless both parties agree to the material amendment and both parties sign their agreement in writing.

(4) If the participating provider does not object to the proposed material amendment in the manner described in division (A)(3) of this section, the proposed material amendment shall be effective as specified in the notice described in division (A)(2) of this section.

(B)(1) Division (A) of this section does not apply if the delay caused by compliance with that division could result in imminent harm to an enrollee, if the material amendment of a health care contract is required by state or federal law, rule, or regulation, or if the provider affirmatively accepts the material amendment in writing and agrees to an earlier effective date than otherwise required by division (A)(2) of this section.

(2) This section does not apply under any of the following circumstances:

(a) The participating provider's payment or compensation is based on the current medicaid or medicare physician fee schedule, and the change in payment or compensation results solely from a change in that physician fee schedule.

(b) A routine change or update of the health care contract is made in response to any addition, deletion, or revision of any service code, procedure code, or reporting code, or a pricing change is made by any third party source.

For purposes of division (B)(2)(b) of this section:

(i) "Service code, procedure code, or reporting code" means the current procedural terminology (CPT), current dental terminology (CDT), the healthcare common procedure coding system (HCPCS), the international classification of diseases (ICD), or the drug topics redbook average wholesale price (AWP).

(ii) "Third party source" means the American medical association, American dental association, the centers for medicare and medicaid services, the national center for health statistics, the department of health and human services office of the inspector general, the Ohio department of insurance, or the Ohio department of medicaid.

(C) Notwithstanding divisions (A) and (B) of this section, a health care contract may be amended by operation of law as required by any applicable state or federal law, rule, or regulation. Nothing in this section shall be construed to require the renegotiation of a health care contract that is in existence before June 25, 2008, until the time that the contract is renewed or materially amended.

Section 2. That existing sections 3963.01 and 3963.04 of the Revised Code are hereby repealed.