

As Introduced

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H. B. No. 589

Representative Mathews, A.

To amend sections 3963.01 and 3963.04 of the 1
Revised Code regarding material amendments to 2
contracts between health insurers and health 3
care providers. 4

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

Section 1. That sections 3963.01 and 3963.04 of the 5
Revised Code be amended to read as follows: 6

Sec. 3963.01. As used in this chapter: 7

(A) "Affiliate" means any person or entity that has 8
ownership or control of a contracting entity, is owned or 9
controlled by a contracting entity, or is under common ownership 10
or control with a contracting entity. 11

(B) "Basic health care services" has the same meaning as 12
in division (A) of section 1751.01 of the Revised Code, except 13
that it does not include any services listed in that division 14
that are provided by a pharmacist or nursing home. 15

(C) "Covered vision services" means vision care services 16
or vision care materials for which a reimbursement is available 17
under an enrollee's health care contract, or for which a 18
reimbursement would be available but for the application of 19
contractual limitations, such as a deductible, copayment, 20

coinsurance, waiting period, annual or lifetime maximum, 21
frequency limitation, alternative benefit payment, or any other 22
limitation. 23

(D) "Contracting entity" means any person that has a 24
primary business purpose of contracting with participating 25
providers for the delivery of health care services. 26

(E) "Covered dental services" means dental care services 27
for which reimbursement is available under an enrollee's health 28
care contract, or for which a reimbursement would be available 29
but for the application of contractual limitations, such as a 30
deductible, copayment, coinsurance, waiting period, annual or 31
lifetime maximum, frequency limitation, alternative benefit 32
payment, or any other limitation. 33

(F) "Credentialing" means the process of assessing and 34
validating the qualifications of a provider applying to be 35
approved by a contracting entity to provide basic health care 36
services, specialty health care services, or supplemental health 37
care services to enrollees. 38

(G) "Dental care provider" means a dentist licensed under 39
Chapter 4715. of the Revised Code. "Dental care provider" does 40
not include a dental hygienist licensed under Chapter 4715. of 41
the Revised Code. 42

(H) "Edit" means adjusting one or more procedure codes 43
billed by a participating provider on a claim for payment or a 44
practice that results in any of the following: 45

(1) Payment for some, but not all of the procedure codes 46
originally billed by a participating provider; 47

(2) Payment for a different procedure code than the 48
procedure code originally billed by a participating provider; 49

(3) A reduced payment as a result of services provided to 50
an enrollee that are claimed under more than one procedure code 51
on the same service date. 52

(I) "Electronic claims transport" means to accept and 53
digitize claims or to accept claims already digitized, to place 54
those claims into a format that complies with the electronic 55
transaction standards issued by the United States department of 56
health and human services pursuant to the "Health Insurance 57
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 58
U.S.C. 1320d, et seq., as those electronic standards are 59
applicable to the parties and as those electronic standards are 60
updated from time to time, and to electronically transmit those 61
claims to the appropriate contracting entity, payer, or third- 62
party administrator. 63

(J) "Enrollee" means any person eligible for health care 64
benefits under a health benefit plan, including an eligible 65
recipient of medicaid, and includes all of the following terms: 66

(1) "Enrollee" and "subscriber" as defined by section 67
1751.01 of the Revised Code; 68

(2) "Member" as defined by section 1739.01 of the Revised 69
Code; 70

(3) "Insured" and "plan member" pursuant to Chapter 3923. 71
of the Revised Code; 72

(4) "Beneficiary" as defined by section 3901.38 of the 73
Revised Code. 74

(K) "Health care contract" means a contract entered into, 75
materially amended, or renewed between a contracting entity and 76
a participating provider for the delivery of basic health care 77
services, specialty health care services, or supplemental health 78

care services to enrollees. 79

(L) "Health care services" means basic health care 80
services, specialty health care services, and supplemental 81
health care services. 82

(M) "Material amendment" means an amendment to a health 83
care contract, including an amendment to any program, policy, or 84
procedure of the contracting entity that is applicable to 85
participating providers under the health care contract, that 86
decreases the participating provider's payment or compensation, 87
changes the administrative procedures in a way that may 88
reasonably be expected to significantly increase the provider's 89
administrative expenses, or adds a new product. A material 90
amendment does not include any of the following: 91

(1) A decrease in payment or compensation resulting solely 92
from a change in a published fee schedule upon which the payment 93
or compensation is based and the date of applicability is 94
clearly identified in the contract; 95

(2) A decrease in payment or compensation that was 96
anticipated under the terms of the contract, if the amount and 97
date of applicability of the decrease is clearly identified in 98
the contract; 99

(3) An administrative change that may significantly 100
increase the provider's administrative expense, the specific 101
applicability of which is clearly identified in the contract; 102

(4) Changes to an existing prior authorization, 103
precertification, notification, or referral program that do not 104
substantially increase the provider's administrative expense; 105

(5) Changes to an edit program or to specific edits if the 106
participating provider is provided notice of the changes 107

pursuant to division (A) (1) of section 3963.04 of the Revised 108
Code and the notice includes information sufficient for the 109
provider to determine the effect of the change; 110

(6) Changes to a health care contract described in 111
division (B) of section 3963.04 of the Revised Code. 112

(N) "Participating provider" means a provider that has a 113
health care contract with a contracting entity and is entitled 114
to reimbursement for health care services rendered to an 115
enrollee under the health care contract. 116

(O) "Payer" means any person that assumes the financial 117
risk for the payment of claims under a health care contract or 118
the reimbursement for health care services provided to enrollees 119
by participating providers pursuant to a health care contract. 120

(P) "Primary enrollee" means a person who is responsible 121
for making payments for participation in a health care plan or 122
an enrollee whose employment or other status is the basis of 123
eligibility for enrollment in a health care plan. 124

(Q) "Procedure codes" includes the American medical 125
association's current procedural terminology code, the American 126
dental association's current dental terminology, and the centers 127
for medicare and medicaid services health care common procedure 128
coding system. 129

(R) "Product" means one of the following types of 130
categories of coverage for which a participating provider may be 131
obligated to provide health care services pursuant to a health 132
care contract: 133

(1) A health maintenance organization or other product 134
provided by a health insuring corporation; 135

(2) A preferred provider organization;	136
(3) Medicare;	137
(4) Medicaid;	138
(5) Workers' compensation.	139
(S) "Provider" means a physician, podiatrist, dentist,	140
chiropractor, optometrist, psychologist, physician assistant,	141
advanced practice registered nurse, occupational therapist,	142
massage therapist, physical therapist, licensed professional	143
counselor, licensed professional clinical counselor, hearing aid	144
dealer, orthotist, prosthetist, home health agency, hospice care	145
program, pediatric respite care program, or hospital, or a	146
provider organization or physician-hospital organization that is	147
acting exclusively as an administrator on behalf of a provider	148
to facilitate the provider's participation in health care	149
contracts.	150
"Provider" does not mean either of the following:	151
(1) A nursing home;	152
(2) A provider organization or physician-hospital	153
organization that leases the provider organization's or	154
physician-hospital organization's network to a third party or	155
contracts directly with employers or health and welfare funds.	156
(T) "Specialty health care services" has the same meaning	157
as in section 1751.01 of the Revised Code, except that it does	158
not include any services listed in division (B) of section	159
1751.01 of the Revised Code that are provided by a pharmacist or	160
a nursing home.	161
(U) "Supplemental health care services" has the same	162
meaning as in division (B) of section 1751.01 of the Revised	163

Code, except that it does not include any services listed in 164
that division that are provided by a pharmacist or nursing home. 165

(V) "Vision care materials" includes lenses, devices 166
containing lenses, prisms, lens treatments and coatings, contact 167
lenses, orthotics, vision training, and any prosthetic device 168
necessary to correct, relieve, or treat any defect or abnormal 169
condition of the human eye or its adnexa. 170

(W) "Vision care provider" means either of the following: 171

(1) An optometrist licensed under Chapter 4725. of the 172
Revised Code; 173

(2) A physician authorized under Chapter 4731. of the 174
Revised Code to practice medicine and surgery or osteopathic 175
medicine and surgery. 176

Sec. 3963.04. (A) (1) If an amendment to a health care 177
contract is not a material amendment, the contracting entity 178
shall provide the participating provider notice of the amendment 179
at least fifteen days prior to the effective date of the 180
amendment. The contracting entity shall provide all other 181
notices to the participating provider pursuant to the health 182
care contract. 183

(2) ~~A material amendment~~ If an amendment to a health care 184
contract ~~shall occur only if is~~ a material amendment, the 185
contracting entity ~~provides~~ shall provide to the participating 186
provider the proposed material amendment in writing and notice 187
of the proposed material amendment not later than ninety days 188
prior to the effective date of the proposed material amendment. 189
The notice shall be conspicuously entitled "Notice of Material 190
Amendment to Contract." 191

(3) If within ~~fifteen~~ thirty days after receiving the 192

proposed material amendment and notice described in division (A) 193
(2) of this section, the participating provider objects in 194
writing to the proposed material amendment, the contracting 195
entity and ~~there is no resolution of the participating provider~~ 196
shall confer within thirty days of the notice of objection in an 197
effort to resolve the objection, ~~either party may terminate the~~ 198
health care contract upon written notice of termination provided 199
to the other party not later than sixty days prior to the 200
effective date of the. The proposed material amendment shall 201
not be effective unless both parties agree to the material 202
amendment and both parties sign their agreement in writing. 203

(4) If the participating provider does not object to the 204
proposed material amendment in the manner described in division 205
(A) (3) of this section, the proposed material amendment shall be 206
effective as specified in the notice described in division (A) 207
(2) of this section. 208

(B) (1) Division (A) of this section does not apply if the 209
delay caused by compliance with that division could result in 210
imminent harm to an enrollee, if the material amendment of a 211
health care contract is required by state or federal law, rule, 212
or regulation, or if the provider affirmatively accepts the 213
material amendment in writing and agrees to an earlier effective 214
date than otherwise required by division (A) (2) of this section. 215

(2) This section does not apply under any of the following 216
circumstances: 217

(a) The participating provider's payment or compensation 218
is based on the current medicaid or medicare physician fee 219
schedule, and the change in payment or compensation results 220
solely from a change in that physician fee schedule. 221

(b) A routine change or update of the health care contract 222
is made in response to any addition, deletion, or revision of 223
any service code, procedure code, or reporting code, or a 224
pricing change is made by any third party source. 225

For purposes of division (B) (2) (b) of this section: 226

(i) "Service code, procedure code, or reporting code" 227
means the current procedural terminology (CPT), current dental 228
terminology (CDT), the healthcare common procedure coding system 229
(HCPCS), the international classification of diseases (ICD), or 230
the drug topics redbook average wholesale price (AWP). 231

(ii) "Third party source" means the American medical 232
association, American dental association, the centers for 233
medicare and medicaid services, the national center for health 234
statistics, the department of health and human services office 235
of the inspector general, the Ohio department of insurance, or 236
the Ohio department of medicaid. 237

(C) Notwithstanding divisions (A) and (B) of this section, 238
a health care contract may be amended by operation of law as 239
required by any applicable state or federal law, rule, or 240
regulation. Nothing in this section shall be construed to 241
require the renegotiation of a health care contract that is in 242
existence before June 25, 2008, until the time that the contract 243
is renewed or materially amended. 244

Section 2. That existing sections 3963.01 and 3963.04 of 245
the Revised Code are hereby repealed. 246