OLR Bill Analysis

sHB 6620

AN ACT PROMOTING COMPETITION IN CONTRACTS BETWEEN HEALTH CARRIERS AND HEALTH CARE PROVIDERS.

SUMMARY

This bill prohibits health care providers, health carriers (i.e., insurers and HMOs), health plan administrators, or any agent or entity contracting on their behalf from offering, soliciting, requesting, amending, renewing, or entering a health care contract on or after January 1, 2024, that includes an all-or-nothing clause, anti-steering clause, anti-tiering clause, or gag clause.

The bill makes null and void any of these clauses in a health care contract (i.e., an oral or written agreement to provide services under a health benefit plan), written policy or procedure, or agreement. However, it specifies that (1) all remaining clauses remain in effect for the contract's duration and (2) that it does not modify, reduce, or eliminate any existing privacy protections and standards under the federal Health Insurance Portability and Accountability, Genetic Information Nondiscrimination, or federal Americans with Disabilities acts.

The bill authorizes the attorney general to enforce its provisions, including by seeking a permanent injunction against violators.

EFFECTIVE DATE: October 1, 2023

PROHIBITED CLAUSES

Under the bill, an "all-or-nothing clause" requires health carriers or health plan administrators to (1) include all members of a health care provider in a network plan or (2) contract with a provider's affiliate as a condition of contracting with the provider.

An "anti-steering clause" restricts a carrier or administrator from encouraging an enrollee to get healthcare services from a competing hospital or health system, including by offering incentives for enrollees to use specific healthcare providers.

An "anti-tiering clause" (1) restricts health carriers from introducing or modifying a tiered network plan or assigning providers to tiers or (2) requires a health carrier to assign all health care provider members to the same tier.

A "gag clause" restricts a health care provider, carrier, or administrator from disclosing certain information to a government entity (or its contractors or agents), enrollee or their treating provider, plan sponsor or potential eligible enrollees. The information is any price or quality information, including allowed amounts, negotiated rates or discounts, fees for services, or other claim related financial obligations. It also includes a clause that restricts the ability of a health care provider, carrier, or plan administrator to disclose out of pocket costs to enrollees.

Applicability to Health Care Providers

The bill defines a health care provider as a physician group with (1) eight or more members or (2) less than eight members that are employed by or are an affiliate of a hospital, medical foundation, or insurance company. A health care provider is also a for-profit or nonprofit entity, corporation or organization, parent corporation, member, affiliate, subsidy, or entity under common ownership that is authorized by Connecticut to bill or receive payment for health care services in the normal course of business. It also includes hospitals, hospital-based facilities, health systems, freestanding emergency departments, and imaging centers.

ENFORCEMENT

Under the bill, the attorney general may subpoena any parties to a health care contract to require them to submit related records needed to investigate suspected violations of the bill. The attorney general may seek temporary or permanent injunctions and other relief as appropriate to enjoin a health care provider, carrier, administrator, or other

contracting entity from enforcing the prohibited contract clauses. If the court determines a contract violation exists, it may grant injunctive relief and other relief as justice may require. It may also set a deadline for the violating party to comply with an order.

BACKGROUND

Related Bill

sSB 983, favorably reported by the Insurance and Real Estate Committee, contains substantially similar contract provisions.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 12 Nay 0 (03/14/2023)