



General Assembly

Amendment

January Session, 2023

LCO No. 9059



Offered by:
REP. WOOD K., 29th Dist.

To: Subst. House Bill No. 6620

File No. 326

Cal. No. 225

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2024*) (a) As used in this section:

4 (1) "All-or-nothing clause" means any provision in a health care
5 contract that:

6 (A) Requires the health carrier or health plan administrator to include
7 all members of a health care provider in a network plan; or

8 (B) Requires the health carrier or health plan administrator to enter
9 into any additional contract with an affiliate of the health care provider
10 as a condition to entering into a contract with such health care provider;

11 (2) "Anti-steering clause" means any provision in a health care
12 contract that restricts the ability of the health carrier or health plan
13 administrator from encouraging an enrollee to obtain a health care

14 service from a competitor of a hospital or health system, including
15 offering incentives to encourage enrollees to utilize specific health care
16 providers such as centers of excellence or any other pay-for-
17 performance program;

18 (3) "Anti-tiering clause" means any provision in a health care contract
19 that:

20 (A) Restricts the ability of the health carrier or health plan
21 administrator to introduce and modify a tiered network plan or assign
22 health care providers into tiers, including a network that tiers providers
23 by cost or quality; or

24 (B) Requires the health carrier or health plan administrator to place
25 all members of a health care provider in the same tier of a tiered network
26 plan;

27 (4) "Gag clause" means any provision in a health care contract that:

28 (A) Restricts the ability of the health care provider, health carrier or
29 health plan administrator to disclose any price or quality information,
30 including, but not limited to, the allowed amount, negotiated rates or
31 discounts, any fees for services or any other claim-related financial
32 obligations included in the provider contract, to any governmental
33 entity as authorized by law or such government entity's contractors or
34 agents, any enrollee, any treating health care provider of an enrollee,
35 plan sponsor or potential eligible enrollees and plan sponsors; or

36 (B) Restricts the ability of either any health care provider, health
37 carrier or health plan administrator to disclose out-of-pocket costs to
38 any enrollee;

39 (5) "Health benefit plan", "network", "network plan" and "tiered
40 network" have the same meanings as provided in section 38a-472f of the
41 general statutes, as amended by this act;

42 (6) "Health care contract" means any contract, agreement or
43 understanding, either orally or in writing, entered into, amended,

44 restated or renewed between a health care provider and a health carrier,
45 health plan administrator, plan sponsor or its contractors or agents for
46 delivery of health care services to an enrollee of a health benefit plan;

47 (7) "Health care provider" means any for-profit or nonprofit entity,
48 corporation or organization, parent corporation, member, affiliate,
49 subsidiary or entity under common ownership that is or whose
50 members are licensed or otherwise authorized by this state to furnish,
51 bill for or receive payment for health care service delivery in the normal
52 course of business, including, but not limited to, a health system,
53 hospital, hospital-based facility, freestanding emergency department,
54 imaging center, physician group with eight or more physicians, urgent
55 care center, as defined in section 19a-493d of the general statutes, and
56 any physician or physician group in a practice of fewer than eight
57 physicians that is employed by or an affiliate of any hospital, medical
58 foundation or insurance company;

59 (8) "Health carrier" has the same meaning as provided in section 38a-
60 591a of the general statutes; and

61 (9) "Health plan administrator" means any third-party administrator
62 who acts on behalf of a plan sponsor to administer a health benefit plan.

63 (b) No health care provider, health carrier, health plan administrator
64 or any agent or other entity that contracts on behalf of a health care
65 provider, health carrier, or health plan administrator, may offer, solicit,
66 request, amend, renew or enter into a health care contract on or after
67 July 1, 2024, that directly or indirectly includes any of the following
68 provisions:

69 (1) An all-or-nothing clause;

70 (2) An anti-steering clause;

71 (3) An anti-tiering clause; or

72 (4) A gag clause.

73 (c) Any clause in a health care contract, written policy, written
74 procedure or agreement entered into, renewed or amended on or after
75 July 1, 2024, that is contrary to the provisions set forth in subsection (b)
76 of this section shall be null and void. All remaining clauses of such
77 health care contract, written policy, written procedure or agreement
78 shall remain in effect for the duration of the contract term.

79 (d) Nothing in this section shall be construed to modify, reduce or
80 eliminate the existing privacy protections and standards pursuant to the
81 federal Health Insurance Portability and Accountability Act of 1996, P.L.
82 104-191, as amended from time to time, the federal Genetic Information
83 Nondiscrimination Act of 2008, P.L. 110-233, as amended from time to
84 time, or the federal Americans with Disabilities Act of 1990, 42 USC
85 12101, as amended from time to time.

86 Sec. 2. Subsection (f) of section 38a-472f of the general statutes is
87 repealed and the following is substituted in lieu thereof (*Effective July 1,*
88 *2024*):

89 (f) (1) Each health carrier shall develop standards, to be used by such
90 health carrier and its intermediaries, for selecting and tiering, as
91 applicable, participating providers and each health care provider
92 specialty. Each contract involving a tiered network entered into,
93 renewed or amended on or after July 1, 2024, between a health carrier
94 and participating provider shall include a provision requiring that such
95 health carrier provide to the participating provider, upon request, such
96 participating provider's calculated score and related data, as available,
97 and a description of the standards used for selecting and tiering such
98 participating provider, including:

99 (A) Definitions and specifications of measures related to quality, cost,
100 efficiency, satisfaction and any other factors used to develop such
101 standards and measure performance under such standards, with
102 delineation of any inclusions or exclusions under each measure;

103 (B) A defined time period of not less than one year to measure
104 performance based on such standards; and

105 (C) A summary of the grievance process established pursuant to
106 subdivision (2) of this subsection for a participating provider to appeal
107 the results of such health carrier's tiering decisions and performance
108 measures.

109 (2) The standards developed by each health carrier pursuant to
110 subdivision (1) of this subsection shall remain in effect for not less than
111 one year. Each health carrier shall (A) provide not less than ninety days'
112 written notice to each participating provider before such health carrier
113 may implement any changes to such standards and measures, and (B)
114 establish a grievance process for a participating provider to appeal such
115 health carrier's tiering decisions and performance measures for such
116 participating provider.

117 ~~[(2)]~~ (3) No health carrier shall establish selection or tiering criteria in
118 a manner that would (A) allow the health carrier to discriminate against
119 high-risk populations by excluding or tiering participating providers
120 because they are located in a geographic area that contains populations
121 or participating providers that present a risk of higher-than-average
122 claims, losses or health care services utilization, or (B) exclude
123 participating providers because they treat or specialize in treating
124 populations that present a risk of higher-than-average claims, losses or
125 health care services utilization. Nothing in this subdivision shall be
126 construed to prohibit a health carrier from declining to select a health
127 care provider or facility for participation in such health carrier's network
128 who fails to meet legitimate selection criteria established by such health
129 carrier.

130 ~~[(3)]~~ (4) No health carrier shall establish selection criteria that would
131 allow the health carrier to discriminate, with respect to participation in
132 a network plan, against any health care provider who is acting within
133 the scope of such health care provider's license or certification under
134 state law. Nothing in this subdivision shall be construed to require a
135 health carrier to contract with any health care provider or facility willing
136 to abide by the terms and conditions for participation established by
137 such health carrier.

138 [(4)] (5) Each health carrier shall make the standards required under
 139 subdivision (1) of this subsection available to the commissioner for
 140 review and shall post on its Internet web site and make available to the
 141 public a plain language description of such standards, including all
 142 measures and corresponding definitions and specifications used to tier
 143 participating providers and to evaluate participating provider
 144 performance in each tier. Each health carrier shall post on its Internet
 145 web site a plain language description of the grievance process
 146 established pursuant to subdivision (2) of this subsection for a
 147 participating provider to appeal the results of such health carrier's
 148 tiering decisions and performance measures.

149 [(5)] (6) Nothing in this subsection shall require a health carrier, its
 150 intermediaries or health care provider networks with which such health
 151 carrier or intermediary contracts to (A) employ specific health care
 152 providers acting within the scope of such health care providers' license
 153 or certification under state law who meet such health carrier's selection
 154 criteria, or (B) contract with or retain more health care providers acting
 155 within the scope of such health care providers' license or certification
 156 under state law than are necessary to maintain a sufficient network."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	New section
Sec. 2	July 1, 2024	38a-472f(f)