

File No. 672

(Reprint of File No. 321)

Substitute House Bill No. 5404
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 2, 1998

AN ACT CONCERNING HEALTH PROVIDER BILLING
PRACTICES AND REQUIRING HEALTH INSURERS TO PAY OR
REIMBURSE PROVIDERS ON A TIMELY BASIS.

Be it enacted by the Senate and House of
Representatives in General Assembly convened:

1 Section 1. (NEW) (a) For purposes of this
2 section:

3 (1) "Request payment" includes, but is not
4 limited to, submitting a bill for services not
5 actually owed or submitting for such services an
6 invoice or other communication detailing the cost
7 of the services that is not clearly marked with
8 the phrase "This is not a bill".

9 (2) "Health care provider" means a person
10 licensed to provide health care services under
11 chapters 370 to 373, inclusive, chapters 375 to
12 383b, inclusive, chapters 384a to 384c, inclusive,
13 or chapter 400j of the general statutes.

14 (3) "Enrollee" means a person who has
15 contracted for or who participates in a managed
16 care plan for himself or his eligible dependents.

17 (4) "Managed care organization" means an
18 insurer, health care center, hospital or medical
19 service corporation or other organization
20 delivering, issuing for delivery, renewing or

21 amending any individual or group health managed
22 care plan in this state.

23 (5) "Copayment or deductible" means the
24 portion of a charge for services covered by a
25 managed care plan that, under the plan's terms, it
26 is the obligation of the enrollee to pay.

27 (b) It shall be an unfair trade practice in
28 violation of chapter 735a of the general statutes
29 for any health care provider to request payment
30 from an enrollee, other than a copayment or
31 deductible, for medical services covered under a
32 managed care plan.

33 (c) It shall be an unfair trade practice in
34 violation of chapter 735a of the general statutes
35 for any health care provider to report to a credit
36 reporting agency an enrollee's failure to pay a
37 bill for medical services when a managed care
38 organization has primary responsibility for
39 payment of such services.

40 Sec. 2. Subsection (c) of section 38a-193 of
41 the general statutes is repealed and the following
42 is substituted in lieu thereof:

43 (c) (1) Every contract between a health care
44 center and a participating provider of health care
45 services shall be in writing and shall set forth
46 that in the event the health care center fails to
47 pay for health care services as set forth in the
48 contract, the subscriber or enrollee shall not be
49 liable to the provider for any sums owed by the
50 health care center. (2) In the event that the
51 participating provider contract has not been
52 reduced to writing as required by this subsection
53 or that the contract fails to contain the required
54 prohibition, the participating provider shall not
55 collect or attempt to collect from the subscriber
56 or enrollee sums owed by the health care center.

57 (3) No participating provider, or agent, trustee
58 or assignee thereof, may: [maintain] (A) MAINTAIN
59 any action at law against a subscriber or enrollee
60 to collect sums owed by the health care center; OR
61 (B) REQUEST PAYMENT FROM A SUBSCRIBER OR ENROLLEE
62 FOR SUCH SUMS. FOR PURPOSES OF THIS SUBDIVISION
63 "REQUEST PAYMENT" INCLUDES, BUT IS NOT LIMITED TO,
64 SUBMITTING A BILL FOR SERVICES NOT ACTUALLY OWED
65 OR SUBMITTING FOR SUCH SERVICES AN INVOICE OR
66 OTHER COMMUNICATION DETAILING THE COST OF THE
67 SERVICES THAT IS NOT CLEARLY MARKED WITH THE
68 PHRASE "THIS IS NOT A BILL".

69 Sec. 3. Subdivision (15) of section 38a-816 of
70 the general statutes, as amended by public act
71 97-95, section 3 of public act 97-126, and section
72 13 of public act 97-202, is repealed and the
73 following is substituted in lieu thereof:

74 (15) Failure to pay accident and health
75 claims, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR
76 PAYMENT OR REIMBURSEMENT TO HEALTH CARE PROVIDERS,
77 within forty-five days, OR AS OTHERWISE STIPULATED
78 BY CONTRACT, of receipt by an insurer of the
79 claimant's proof of loss form OR THE HEALTH CARE
80 PROVIDER'S REQUEST FOR PAYMENT FILED IN ACCORDANCE
81 WITH THE INSURER'S PRACTICES OR PROCEDURES, unless
82 the Insurance Commissioner determines that a
83 legitimate dispute exists as to coverage,
84 liability or damages or that the claimant has
85 fraudulently caused or contributed to the loss.
86 Any insurer who fails to pay such a claim OR
87 REQUEST with the forty-five day period shall pay
88 the claimant OR HEALTH CARE PROVIDER the amount of
89 such claim plus interest at the rate of fifteen
90 per cent per annum, in addition to any other
91 penalties which may be imposed pursuant to
92 sections 38a-11, AS AMENDED, 38a-25, AS AMENDED,
93 38a-41 to 38a-53, inclusive, 38a-57 to 38a-60,
94 inclusive, 38a-62 to 38a-65, inclusive, 38a-76,
95 38a-83, 38a-84, 38a-117 to 38a-124, inclusive,
96 38a-129 to 38a-140, inclusive, 38a-146 to 38a-155,
97 inclusive, 38a-283, 38a-288 to 38a-290, inclusive,
98 AS AMENDED, 38a-319, 38a-320, AS AMENDED, 38a-459,
99 AS AMENDED, 38a-464, 38a-815 to 38a-819,
100 inclusive, AS AMENDED, 38a-824 to 38a-826,
101 inclusive, and 38a-828 to 38a-831, inclusive.
102 Whenever the interest due a claimant OR HEALTH
103 CARE PROVIDER pursuant to this section is less
104 than one dollar, the insurer shall deposit such
105 amount in a separate interest-bearing account in
106 which all such amounts shall be deposited. At the
107 end of each calendar year each such insurer shall
108 donate [one-half of] such amount to The University
109 of Connecticut Health Center. [and one-half of
110 such amount to Uncas-on-Thames Hospital.]

111 Sec. 4. This act shall take effect October 1,
112 1998, except that section 3 shall take effect
113 January 1, 1999, and shall be applicable to
114 contracts entered into or renewed after that date.

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sHB 5404

STATE IMPACT	Revenue Gain, Workload Increase, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Insurance, Department of Consumer Protection, Office of the Attorney General

EXPLANATION OF ESTIMATES:

STATE IMPACT: The bill specifies that health care providers as well as claimants will get paid with interest. This interest will be applied if the time for payment is extended past 45 days and insurers make payment later than this date.

It establishes an Unfair Trade Practice in violation of Chapter 735a of the General Statutes for any health care provider to request payment from an enrollee, other than a copayment or deductible for medical services covered under a managed care plan.

It is also establishes an Unfair Trade Practice for any health care provider to report to a credit reporting agency an enrollee's failure to pay a bill when a managed care organization has responsibility for it.

Unfair Trade Practices Act, the Department of Consumer Protection has basically two methods for resolving complaints; 1) formal administrative hearings, or 2) forwarding the complaint to the Attorney General's Office for litigation.

DCP does not have prior experience in regulating the requirements contained in the bill. Therefore, it is assumed that the agency would need to acquire some type of expertise before it could hold a formal administrative hearing. It is estimated that the agency would need between \$50,000-\$100,000 for a consultant with the required expertise.

If most of the cases are handled administratively by DCP, the workload increase to the Office of the Attorney General is expected to be minimal and can be handled within the agency's anticipated budgetary resources.

Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, thus, a revenue gain to the General Fund is anticipated. The extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amounts of the penalties that are imposed.

House "A" strikes lines 1 to 273 of the bill and establishes the unfair trade practice. It has a savings and revenue gain impact.

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OLR AMENDED BILL ANALYSIS

SHB 5404 (as amended by House "A")*

AN ACT CONCERNING PROVIDER SPONSORED ORGANIZATIONS

SUMMARY: This bill makes it an unfair trade practice for any health care provider to (1) request payment from a managed care plan enrollee for covered medical services, except for a copayment or deductible, or (2) to report to a credit reporting agency an enrollee's failure to pay a bill for medical services when a managed care organization has primary responsibility for paying for the services.

Under the bill, requesting payment means submitting a bill for services not actually owed or submitting an invoice or other communication detailing those service costs without clearly marking it: "This is not a bill." Copayment or deductible means the portion of a charge for services covered by a managed care plan that the

enrollee is obligated to pay under the plan's terms.

The bill also requires insurers to pay health care providers' claims for payment or reimbursement (1) within 45 days of the provider's claim for payment filed according to the insurer's practices or procedures or (2) as otherwise stipulated by contract. Under the bill, failure to make these required payments is an unfair method of competition or an unfair and deceptive act or practice in the insurance business and subjects the insurer to certain penalties.

*House Amendment "A" strikes the original bill in its entirety and substitutes the language about health care billing practices and insurer reimbursement of providers.

EFFECTIVE DATE: October 1, 1998, except that the insurer payment to providers provisions takes effect January 1, 1999 and applies to contracts begun or reviewed after that date.

FURTHER EXPLANATION

Reimbursement to Providers--Penalties

Under the bill, insurers failing to make payments to insurers within forty-five days or as otherwise stipulated by contract must pay the provider the claim plus interest of 15% per year. Additionally, the bill allows the insurance commissioner to impose existing penalties applicable to those engaged in an unfair method of competition or unfair and deceptive act or practice. These include: (1) ordering the party to stop, (2) paying a penalty of \$1,000 to \$5,000 per act up to an aggregate of \$50,000, or (3) surrendering a license.

Under current law, insurers must deposit interest penalty payments under \$1 in a separate interest-bearing account. At the end of each year, insurers must report the total amount in the account to the commissioner and donate 50% of it to the UConn Health Center and 50% to Uncas-on-Thames Hospital.

The bill adds interest payments for failure of insurers to timely pay providers to this separate account. Also, the bill requires insurers to donate 100% to the health

center.

BACKGROUND

Connecticut Unfair Trade Practices Act

Under the Unfair Trade Practices Act, the consumer protection commissioner may investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating restraining orders.

Legislative History

The House referred the bill to the Insurance and Real Estate Committee on April 8. That committee reported it favorably without change on April 15. On April 17, the House referred the bill to the Appropriations Committee which reported it favorably without change on April 22. The House adopted House "A" on April 30, but did not pass the bill as amended. On May 1, the House passed the bill as amended by House "A."

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 23 Nay 0

Insurance and Real Estate Committee

Joint Favorable Report
Yea 11 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 42 Nay 0