

§ 1371.37. Prohibition against unfair patterns

(a) A health care service plan is prohibited from engaging in an unfair payment pattern, as defined in this section.

(b) Consistent with subdivision (a) of Section 1371.39, the director may investigate a health care service plan to determine whether it has engaged in an unfair payment pattern.

(c) An “unfair payment pattern,” as used in this section, means any of the following:

(1) Engaging in a demonstrable and unjust pattern, as defined by the department, of reviewing or processing complete and accurate claims that results in payment delays.

(2) Engaging in a demonstrable and unjust pattern, as defined by the department, of reducing the amount of payment or denying complete and accurate claims.

(3) Failing on a repeated basis to pay the uncontested portions of a claim within the timeframes specified in Section 1371, 1371.1, or 1371.35.

(4) Failing on a repeated basis to automatically include the interest due on claims pursuant to Section 1371.

(d)(1) Upon a final determination by the director that a health care service plan has engaged in an unfair payment pattern, the director may:

(A) Impose monetary penalties as permitted under this chapter.

(B) Require the health care service plan for a period of three years from the date of the director’s determination, or for a shorter period prescribed by the director, to pay complete and accurate claims from the provider within a shorter period of time than that required by Section 1371. The provisions of this subparagraph shall not become operative until January 1, 2002.

(C) Include a claim for costs incurred by the department in any administrative or judicial action, including investigative expenses and the cost to monitor compliance by the plan.

(2) For any overpayment made by a health care service plan while subject to the provisions of paragraph (1), the provider shall remain liable to the plan for repayment pursuant to Section 1371.1.

(e) The enforcement remedies provided in this section are not exclusive and shall not limit or preclude the use of any otherwise available criminal, civil, or administrative remedy.

(f) The penalties set forth in this section shall not preclude, suspend, affect, or impact any other duty, right, responsibility, or obligation under a statute or under a contract between a health care service plan and a provider.

(g) A health care service plan may not delegate any statutory liability under this section.

(h) For the purposes of this section, “complete and accurate claim” has the same meaning as that provided in the regulations adopted by the department pursuant to subdivision (a) of Section 1371.38.

(i) On or before December 31, 2001, the department shall report to the Legislature and the Governor information regarding the development of the definition of “unjust pattern” as used in this section. This report shall include, but not be limited to, a description of the process used and a list of the parties involved in the department’s development of this definition as well as recommendations for statutory adoption.

(j) The department shall make available upon request and on its website, information regarding actions taken pursuant to this section, including a description of the activities that were the basis for the action.

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STANDARDS

§ 1371.4

HISTORY:

Added Stats 2000 ch 827 § 6 (AB 1455),
effective January 1, 2001.