

## **§ 1367.045. Void and unenforceable contract provision**

(a) If a health care service plan contract offered, issued, delivered, amended, or renewed on or after January 1, 2021, contains a provision that reserves discretionary authority to the plan, or an agent of the plan, to determine eligibility for benefits or coverage, to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this state, that provision is void and unenforceable.

(b) For purposes of this section, the term “discretionary authority” means a contract provision that has the effect of conferring discretion on a health care service plan or other claims administrator to determine entitlement to benefits or interpret contract language that, in turn, could lead to a deferential standard of review by a reviewing court.

(c) This section does not prohibit a health care service plan from including a provision in a contract that informs an enrollee that, as part of its routine operations, the plan applies the terms of its contracts for making decisions, including making determinations regarding eligibility, receipt of benefits and claims, or explaining policies, procedures, and processes, so long as the provision could not give rise to a deferential standard of review by a reviewing court.

(d) This section applies to both group and individual health care service plan contracts.

### **HISTORY:**

Added Stats 2020 ch 151 § 2 (SB 855), effective January 1, 2021.