§ 1375.61. Termination of contract due to judgment by another state

(a) A contract issued, amended, or renewed on or after January 1, 2024, between a health care service plan and a provider of health care services shall not contain any term that would result in termination or nonrenewal of the contract or otherwise penalize the provider, based solely on a civil judgment issued in another state, a criminal conviction in another state, or another disciplinary action in another state, if the judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(b) A health care service plan shall not discriminate, with respect to the provision of, or contracts for, professional services, against a licensed provider solely on the basis of a civil judgment issued in another state, a criminal conviction in another state, or another disciplinary action in another state if the judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

(c) This section does not apply to a civil judgment, a criminal conviction, or a disciplinary action imposed in another state based upon conduct that would subject a provider to claim, charge, or action under the laws of this state.

HISTORY:

Added Stats 2023 ch 261 § 1 (SB 487), effective January 1, 2024.

§ 1375.7. Health Care Providers' Bill of Rights

(a) This section shall be known and may be cited as the Health Care Providers' Bill of Rights.

(b) No contract issued, amended, or renewed on or after January 1, 2003, between a plan and a health care provider for the provision of health care services to a plan enrollee or subscriber shall contain any of the following terms:

(1)(A) Authority for the plan to change a material term of the contract, unless the change has first been negotiated and agreed to by the provider and the plan or the change is necessary to comply with state or federal law or regulations or any accreditation requirements of a private sector

accreditation organization. If a change is made by amending a manual, policy, or procedure document referenced in the contract, the plan shall provide 45 business days' notice to the provider, and the provider has the right to negotiate and agree to the change. If the plan and the provider cannot agree to the change to a manual, policy, or procedure document, the provider has the right to terminate the contract prior to the implementation of the change. In any event, the plan shall provide at least 45 business days' notice of its intent to change a material term, unless a change in state or federal law or regulations or any accreditation requirements of a private sector accreditation organization requires a shorter timeframe for compliance. However, if the parties mutually agree, the 45-business day notice requirement may be waived. Nothing in this subparagraph limits the ability of the parties to mutually agree to the proposed change at any time after the provider has received notice of the proposed change.

(B) If a contract between a provider and a plan provides benefits to enrollees or subscribers through a preferred provider arrangement, the contract may contain provisions permitting a material change to the contract by the plan if the plan provides at least 45 business days' notice to the provider of the change and the provider has the right to terminate the contract prior to the implementation of the change.

(C) If a contract between a noninstitutional provider and a plan provides benefits to enrollees or subscribers covered under the Medi-Cal or Healthy Families Program and compensates the provider on a fee-for-service basis, the contract may contain provisions permitting a material change to the contract by the plan, if the following requirements are met:

(i) The plan gives the provider a minimum of 90 business days' notice of its intent to change a material term of the contract.

(ii) The plan clearly gives the provider the right to exercise his or her intent to negotiate and agree to the change within 30 business days of the provider's receipt of the notice described in clause (i).

(iii) The plan clearly gives the provider the right to terminate the contract within 90 business days from the date of the provider's receipt of the notice described in clause (i) if the provider does not exercise the right to negotiate the change or no agreement is reached, as described in clause (ii).

(iv) The material change becomes effective 90 business days from the date of the notice described in clause (i) if the provider does not exercise his or her right to negotiate the change, as described in clause (ii), or to terminate the contract, as described in clause (iii).

(2) A provision that requires a health care provider to accept additional patients beyond the contracted number or in the absence of a number if, in the reasonable professional judgment of the provider, accepting additional patients would endanger patients' access to, or continuity of, care.

(3) A requirement to comply with quality improvement or utilization management programs or procedures of a plan, unless the requirement is fully disclosed to the health care provider at least 15 business days prior to the provider executing the contract. However, the plan may make a change to the quality improvement or utilization management programs or procedures at any time if the change is necessary to comply with state or federal

law or regulations or any accreditation requirements of a private sector accreditation organization. A change to the quality improvement or utilization management programs or procedures shall be made pursuant to paragraph (1).

(4) A provision that waives or conflicts with any provision of this chapter. A provision in the contract that allows the plan to provide professional liability or other coverage or to assume the cost of defending the provider in an action relating to professional liability or other action is not in conflict with, or in violation of, this chapter.

(5) A requirement to permit access to patient information in violation of federal or state laws concerning the confidentiality of patient information.

(c) With respect to a health care service plan contract covering dental services or a specialized health care service plan contract covering dental services, all of the following shall apply:

(1) If a material change is made to the health care service plan's rules, guidelines, policies, or procedures concerning dental provider contracting or coverage of or payment for dental services, the plan shall provide at least 45 business days' written notice to the dentists contracting with the health care service plan to provide services under the plan's individual or group plan contracts, including specialized health care service plan contracts, unless a change in state or federal law or regulations or any accreditation requirements of a private sector accreditation organization requires a shorter timeframe for compliance. For purposes of this paragraph, written notice shall include notice by electronic mail or facsimile transmission. This paragraph shall apply in addition to the other applicable requirements imposed under this section, except that it shall not apply where notice of the proposed change is required to be provided pursuant to subparagraph (C) of paragraph (1) of subdivision (b).

(2) For purposes of paragraph (1), a material change made to a health care service plan's rules, guidelines, policies, or procedures concerning dental provider contracting or coverage of or payment for dental services is a change to the system by which the plan adjudicates and pays claims for treatment that would reasonably be expected to cause delays or disruptions in processing claims or making eligibility determinations, or a change to the general coverage or general policies of the plan that affect rates and fees paid to providers.

(3) A plan that automatically renews a contract with a dental provider shall annually make available to the provider, within 60 days following a request by the provider, either online, via email, or in paper form, a copy of its current contract and a summary of the changes described in paragraph (1) of subdivision (b) that have been made since the contract was issued or last renewed.

(4) This subdivision shall not apply to a health care service plan that exclusively contracts with no more than two medical groups in the state to provide or arrange for the provision of professional medical services to the enrollees of the plan.

(d)(1) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

(2) For purposes of this subdivision, the following terms shall have the following meanings:

(A) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 1395.6.

(B) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 1395.6.

(e) Any contract provision that violates subdivision (b), (c), or (d) shall be void, unlawful, and unenforceable.

(f) The department shall compile the information submitted by plans pursuant to subdivision (h) of Section 1367 into a report and submit the report to the Governor and the Legislature by March 15 of each calendar year.

(g) Nothing in this section shall be construed or applied as setting the rate of payment to be included in contracts between plans and health care providers.

(h) For purposes of this section the following definitions apply:

(1) "Health care provider" means any professional person, medical group, independent practice association, organization, health care facility, or other person or institution licensed or authorized by the state to deliver or furnish health services.

(2) "Material" means a provision in a contract to which a reasonable person would attach importance in determining the action to be taken upon the provision.

HISTORY:

Added Stats 2002 ch 925 § 1 (AB 2907). Amended Stats 2003 ch 203 § 2 (AB 175); Stats 2004 ch 183 § 189 (AB 3082), ch 348 § 1 (AB 2429) (ch 348 prevails); Stats 2012 ch 447 § 1, effective January 1, 2013.