



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2965

Introduced 2/3/2010, by Sen. Michael Noland

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/368g new

Amends the Illinois Insurance Code. Sets forth provisions concerning restrictions on payment and reimbursement. Provides that a contracting entity, insurer, or third-party administrator may not grant access to a provider's health care services and contractual discounts pursuant to a provider network contract or reimburse a physician or other provider on a discounted fee basis for covered services that are provided to an insured unless certain conditions are met. Provides that a party to a preferred provider contract may not sell, lease, or otherwise transfer information regarding the payment or reimbursement terms of the contract without notification to and the authority of the other contracting parties. Sets forth requirements for a contracting entity, insurer, or third-party administrator that grants access to a provider's health care services and contractual discounts pursuant to a provider network contract. Provides that the Department of Insurance shall enforce the provisions concerning restrictions on payment and reimbursement. Sets forth penalties for violations of the Act.

LRB096 16719 RPM 32011 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding  
5 Section 368g as follows:

6 (215 ILCS 5/368g new)

7 Sec. 368g. Restrictions on payment and reimbursement.

8 (a) A contracting entity, an insurer, or third-party  
9 administrator licensed to do business in this State may not  
10 grant access to a provider's health care services and  
11 contractual discounts pursuant to a provider network contract  
12 or reimburse a physician or other practitioner, institutional  
13 provider, or organization of physicians and health care  
14 providers on a discounted fee basis for covered services that  
15 are provided to an insured unless:

16 (1) the provider network contract specifically states  
17 that the contracting entity may enter into an agreement  
18 with a third party allowing the third party to obtain the  
19 contracting entity, insurer, or third-party  
20 administrator's rights and responsibilities under the  
21 provider network contract as if the third party were the  
22 contracting entity, an insurer, or third-party  
23 administrator; any changes shall require a prior-approval

1 signature from the provider; however, the provider may  
2 refuse to comply with the assignment without consequence  
3 and without material change to the original contract with  
4 the contracting entity;

5 (2) the third party accessing the provider network  
6 contract is contractually obligated to comply with all  
7 applicable terms, contracted rates, limitations, and  
8 conditions of the provider network contract; and

9 (3) the insurer or third-party administrator has  
10 agreed to provide coverage for those health care services  
11 under the health insurance policy.

12 (b) A party to a preferred provider contract, including a  
13 contract with a preferred provider organization, may not sell,  
14 lease, or otherwise transfer information regarding the payment  
15 or reimbursement terms of the contract without prior adequate  
16 notification to and the express authority of the other  
17 contracting parties.

18 (c) A contracting entity, insurer, or third-party  
19 administrator who grants access to a provider's health care  
20 services and contractual discounts pursuant to a provider  
21 network contract shall do all of the following:

22 (1) Identify and provide to the provider, at the time a  
23 provider network contract is entered into with a provider,  
24 a written or electronic list of all third parties to whom  
25 the contracting entity has or will grant access to the  
26 provider's health care services and contractual discounts

1 pursuant to a provider network contract.

2 (2) Maintain a web site or other readily available  
3 mechanism, such as a toll-free telephone number, through  
4 which a provider may obtain a listing, updated at least  
5 every 90 days, of the third parties with whom the  
6 contracting entity or another third party has executed  
7 contracts to grant access to the provider's health care  
8 services and contractual discounts pursuant to a provider  
9 network contract.

10 (3) Provide the third party with sufficient  
11 information regarding the provider network contract to  
12 enable the third party to comply with all relevant terms,  
13 limitations, and conditions of the provider network  
14 contract.

15 (4) Require that the third party who contracts with the  
16 contracting entity, insurer, or third-party administrator  
17 to gain access to the provider network contract identify  
18 the source of the contractual discount taken by the third  
19 party on each remittance advice or explanation of payment  
20 form furnished to a health care provider when the discount  
21 is pursuant to the contracting entity's provider network  
22 contract.

23 (5) Notify the third party who contracts with the  
24 contracting entity to gain access to the provider network  
25 contract of the termination of the provider network  
26 contract no later than 7 days prior to the effective date

1 of the final termination of the provider network contract.  
2 The notice can be provided through any reasonable means,  
3 including, but not limited to, written notice, electronic  
4 communication, or an update to an electronic database or  
5 other provider listing.

6 (6) Require those parties are by contract eligible to  
7 claim the right to access a provider's discounted rate to  
8 cease claiming entitlement to those rates or other  
9 contracted rights or obligations for services rendered  
10 after termination of the provider network contract.

11 (7) Have both the contracting entity's name and the  
12 contracting third party's name included on all member  
13 identification cards and require that the card be presented  
14 at the time of service.

15 (8) Attach a complete payer list to the contract and  
16 require the plan to provide notice of changes to the list.

17 (9) Define "payer" clearly to identify the entity  
18 obligated to pay and include a statement that the provider  
19 has a right to take legal action against that entity.

20 (10) Have a provision in the contract requiring the  
21 forfeiture of all discounts that do not comply with the  
22 preferred provider organization agreement.

23 (11) Include a contract clause that allows the provider  
24 to audit the preferred provider organization's records  
25 that are related to patient activity.

26 (d) A contracting entity, an insurer, a third-party

1 administrator, any third party accessing the provider network  
2 contract, or a party to a preferred provider contract that  
3 violates this Section shall be guilty of a business offense and  
4 may be fined not less than \$200 and not more than \$5,000 for  
5 each offense. The Department shall enforce the provisions of  
6 this Section pursuant to the enforcement powers granted to it  
7 by law. The Department is hereby granted specific authority to  
8 issue a cease and desist order, fine, or otherwise penalize the  
9 contracting entity, the insurer, third-party administrator,  
10 any third party accessing the provider network contract, or a  
11 party to a preferred provider contract that violates this  
12 Section. The Department shall adopt reasonable rules to enforce  
13 compliance with this Section.