

1 AMENDMENT TO HOUSE BILL 2115

2 AMENDMENT NO. _____. Amend House Bill 2115 by replacing
3 the title with the following:

4 "AN ACT concerning health care service contracts."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Illinois Insurance Code is amended by
8 adding Article XIXE as follows:

9 (215 ILCS 5/Art. XIXE heading new)

10 HEALTH CARE SERVICES CONTRACTING

11 (215 ILCS 5/351E-1 new)

12 Sec. 351E-1. Short title. This Article may be cited as
13 the Fairness in Health Care Services Contracting Law.

14 (215 ILCS 5/351E-5 new)

15 Sec. 351E-5. Purpose. The purpose of this Article is to
16 provide reasonable notice of the terms and conditions of
17 individual or group health care professional or health care
18 provider service contracts.

1 (215 ILCS 5/351E-10 new)

2 Sec. 351E-10. Definitions.

3 "Company" means a person that establishes, operates, or
4 maintains a network, panel, or group of health care
5 professionals or health care providers where the
6 professionals or providers have entered into an agreement or
7 contract with the company to provide health care services to
8 enrollees, beneficiaries, or insureds.

9 "Contract" means any written agreement between a company
10 and a health care professional or health care provider for
11 the provision of health care services.

12 "Covered services" means health care services that are
13 eligible for coverage under the company's product, policy, or
14 benefit plan. A claim for covered services that has been
15 denied by the company may be submitted for payment to the
16 person to whom services were rendered or given, except where
17 specifically prohibited by the terms of the contract between
18 the company and health care professional or health care
19 provider.

20 "Health care professional" means a physician, dentist,
21 podiatric physician, nurse, optometrist, physical therapist,
22 clinical psychologist, pharmacist, or other individual or
23 group, appropriately licensed to provide health care
24 services.

25 "Health care provider" means any hospital, ambulatory
26 surgical treatment center, pharmacy, long term care facility,
27 or other facility or group, that is licensed or otherwise
28 authorized to deliver health care services. "Health care
29 provider" also includes independent practice associations and
30 physician-hospital organizations.

31 "Health care services" means any services included in
32 furnishing to any individual medical or dental care and
33 hospitalization incident to the furnishing of medical or
34 dental care, as well as the furnishing to any individual any

1 other services for the purpose of preventing, alleviating,
2 curing, or healing human illness, condition, or injury,
3 including home health and pharmaceutical services and
4 devices.

5 "Person" means an individual, group, corporation,
6 association, partnership, limited liability company, sole
7 proprietorship, or any other legal entity.

8 "Physician" means a person licensed under the Medical
9 Practice Act of 1987.

10 (215 ILCS 5/351E-15 new)

11 Sec. 351E-15. Fairness in contracting procedures. A
12 company shall provide a complete copy of the proposed
13 contract with all attachments and exhibits. The health care
14 professional or health care provider shall be allowed at
15 least 30 days to review the complete contract before being
16 required to sign the contract.

17 (215 ILCS 5/351E-20 new)

18 Sec. 351E-20. All products clauses. A company shall not
19 require a health care professional or health care provider,
20 as a condition of participating in one of the company's
21 networks, to sign a contract to provide services under
22 another of the company's networks. Copayments, coinsurance,
23 deductibles, and covered services may vary from patient to
24 patient within a network.

25 (215 ILCS 5/351E-25 new)

26 Sec. 351E-25. Payment rates.

27 (a) A company shall make payments to a health care
28 professional or health care provider in accordance with its
29 contract with the professional or provider. A company may not
30 make payments under a contract to the health care
31 professional or health care provider based upon rates agreed

1 to by the professional or provider in another contract.

2 (b) A company may not reduce or attempt to reduce
3 payment to a professional or provider for services provided
4 using an amount, discount, or payment reduction formula or
5 methodology that the company and the professional or provider
6 have not directly and specifically agreed upon and stated in
7 the written contract as applying to the service in question.

8 (c) The company must provide a method or process that
9 allows the professional or provider to determine the payment
10 amounts for each service prior to signing the contract.

11 (215 ILCS 5/351E-30 new)

12 Sec. 351E-30. Payment responsibility. The company is
13 directly responsible for the payment to the health care
14 professional or health care provider for any amounts due from
15 the company under the contract. Nothing in this Section shall
16 prohibit the company from contracting with another person to
17 process payments on its behalf.

18 (215 ILCS 5/351E-35 new)

19 Sec. 351E-35. Payment advice. A company shall provide a
20 payment statement to a health care professional or health
21 care provider that identifies the disposition of each claim,
22 including services billed, the contracted payment rates, the
23 actual payment, if any, for the services billed, the reason
24 for any payment reduction to the claim submitted, and the
25 reason for denial of any claim.

26 (215 ILCS 5/351E-40 new)

27 Sec. 351E-40. Proposed changes. A company shall provide
28 a health care professional or health care provider written
29 notice of any proposed changes to the contract and shall
30 provide the professional or provider the opportunity to
31 terminate the contract prior to the effective date of the

1 proposed change. A company shall provide at least 90 days
2 notice of any proposed change.

3 (215 ILCS 5/351E-45 new)

4 Sec. 351E-45. Unilateral terms prohibited. A company may
5 not require unilateral terms concerning termination,
6 indemnification, or arbitration. These provisions shall all
7 apply equally to both the company and health care
8 professional or health care provider. However, any notice of
9 termination must comply with Section 20 of the Managed Care
10 Reform and Patient Rights Act.

11 (215 ILCS 5/351E-50 new)

12 Sec. 351E-50. Noncovered services. A company shall
13 acknowledge that a health care professional and health care
14 provider may bill and collect payments for noncovered
15 services from enrollees, beneficiaries, insureds, or
16 patients. A claim for covered services that has been denied
17 by the company or the amount of a claim above that approved
18 by the company for a covered service may be submitted for
19 payment to the person to whom services were rendered or
20 given, except where specifically prohibited by the terms of
21 the contract between the company and professional or
22 provider.

23 (215 ILCS 5/351E-55 new)

24 Sec. 351E-55. Changing service codes. A company may not
25 change a service code (current procedural terminology (CPT),
26 current dental terminology (CDT), ICD-9-CM, diagnosis related
27 groups (DRGs), or other system) submitted by the health care
28 professional or health care provider without prior
29 notification, consultation, and agreement. The company shall
30 determine the manner in which it adjudicates claims and may
31 limit the service codes it pays for based upon factors

1 including, but not limited to, the bundling of services and
2 multiple surgeries. Notwithstanding the proceeding, the
3 company may correct errors in submitted claims that prevent
4 the claims from being processed and adjudicated, provided
5 that the company informs the professional or provider of the
6 corrections and provides the professional or provider with
7 the opportunity to appeal any corrections.

8 (215 ILCS 5/351E-60 new)

9 Sec. 351E-60. Billing for covered services. A company
10 shall allow a health care professional or health care
11 provider to submit an initial claim for services within 6
12 months, and any final claim within one year, after the date
13 services were rendered.

14 (215 ILCS 5/351E-65 new)

15 Sec. 351E-65. Recoupments. A company shall provide a
16 written explanation of any proposed recoupment including, but
17 not limited to, the name of the patient, the date of service,
18 the service code, and the payment amount, the details
19 concerning the reasons for the recoupment, and an explanation
20 of the appeal process. A health care professional or health
21 care provider shall be given 30 days to appeal the proposed
22 recoupment or to repay the recoupment amount. If the
23 professional or provider chooses to appeal the proposed
24 recoupment and, upon appeal, the proposed recoupment is
25 determined to be appropriate, the professional or provider
26 must pay the recoupment within 30 days of receiving the
27 notice of the final appeal's decision. If the professional or
28 provider does not make any required recoupment payment within
29 these time frames, the company may offset future payments to
30 effectuate the recoupment. Company attempts to recoup any
31 payments shall be limited to 24 months after the date of
32 service, except in an instance in which the health care

1 professional or health care provider has been convicted of
2 insurance fraud.

3 (215 ILCS 5/351E-70 new)

4 Sec. 351E-70. Silent networks. A company may rent,
5 lease, or otherwise assign its network to another person. The
6 company shall provide notification to the health care
7 professionals and health care providers when the company is
8 renting, leasing, or otherwise assigning its network to
9 another person. The notification shall include the name and
10 address of the person renting, leasing, or otherwise
11 utilizing the network and the procedures for submitting
12 claims.

13 A person renting, leasing, or otherwise utilizing a
14 company's network may rent, lease, or use either the entire
15 network or any portion thereof.

16 The person renting, leasing, or otherwise utilizing a
17 company's network or any portion thereof shall agree to use
18 the payment rates agreed to in the contracts between the
19 company and the professionals and providers.

20 The person renting, leasing, or otherwise utilizing a
21 company's network or any portion thereof shall comply with
22 Sections 351E-30, 351E-35, 351E-50, 351E-60, and 351E-65,
23 which may not be waived.

24 (215 ILCS 5/351E-75 new)

25 Sec. 351E-75. Prohibition of waiver of requirements and
26 prohibitions. A company contract or policy, either formal or
27 informal, shall not contain any provision, term, condition,
28 or procedure that limits, restricts, or otherwise waives any
29 of the requirements and prohibitions set forth in this
30 Article. Any provision purporting to make such a waiver is
31 void and unenforceable.

1 (215 ILCS 5/351E-80 new)

2 Sec. 351E-80. Employment contracts. Nothing in this
3 Article shall be construed to mean that a health care
4 professional employment contract is addressed under this
5 Article.

6 (215 ILCS 5/351E-85 new)

7 Sec. 351E-85. Rulemaking. The Director shall issue such
8 rules as he or she shall deem necessary to administer this
9 Article.

10 (215 ILCS 5/351E-90 new)

11 Sec. 351E-90. Enforcement. The Department shall enforce
12 the provisions of this Article pursuant to the enforcement
13 powers granted it by law. The Department is hereby granted
14 specific authority to issue a cease and desist order, impose
15 a civil penalty, or otherwise penalize persons violating this
16 Article.

17 (215 ILCS 5/351E-95 new)

18 Sec. 351E-95. Applicability. This Article applies to
19 policies and contracts amended, delivered, issued, or renewed
20 on or after the effective date of this amendatory Act of the
21 92nd General Assembly. This Article does not diminish a
22 company's duties and responsibilities under other federal or
23 State law or rules promulgated thereunder.

24 Section 90. The Health Maintenance Organization Act is
25 amended by changing Section 4-6.5 as follows:

26 (215 ILCS 125/4-6.5)

27 Sec. 4-6.5. Required health benefits. A health
28 maintenance organization is subject to the provisions of
29 Article XIXE and Sections 356t and 356u of the Illinois

1 Insurance Code.

2 (Source: P.A. 90-7, eff. 6-10-97.)

3 Section 99. Effective date. This Act takes effect 180
4 days after becoming law."