

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 528

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING SECTION 41-2872, IDAHO CODE, TO PROVIDE
2 CERTAIN CONTRACTUAL OBLIGATIONS OF AN INSURANCE COMPANY ISSUING
3 BENEFITS PURSUANT TO CHAPTER 28, TITLE 41, IDAHO CODE; AND AMENDING
4 SECTION 41-3927, IDAHO CODE, TO PROVIDE CERTAIN CONTRACTUAL
5 OBLIGATIONS OF A MANAGED CARE ORGANIZATION.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 41-2872, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 41-2872. HEALTH CARE PROVIDER CONTRACTS -- GRIEVANCE PROCEDURE. (1)
11 Any stock or mutual insurer (hereinafter insurance company) issuing
12 benefits pursuant to the provisions of this chapter shall be ready and
13 willing at all times to enter into health care provider service contracts
14 with all qualified health care providers of the category or categories
15 which are necessary to provide the health care services covered by the
16 insurance company's policy of insurance if such health care providers: are
17 qualified under the laws of the state of Idaho, desire to become participant
18 health care providers of the insurance company, meet the requirements of
19 the insurance company, and practice within the general area served by the
20 insurance company.

21 (2) Nothing in this section shall preclude an insurance company from
22 refusing to contract with a health care provider who is unqualified or
23 who does not meet the terms and conditions of the participating provider
24 contract of the insurance company or from terminating or refusing to renew
25 the contract of a participating health care provider who is unqualified
26 or who does not comply with, or who refuses to comply with, the terms and
27 conditions of the participating health care provider contract including,
28 but not limited to, practice standards and quality requirements. The
29 contract shall provide for written notice to the participating health
30 care provider setting forth any breach of contract for which the insurance
31 company proposes that the contract be terminated or not renewed and shall
32 provide for a reasonable period of time for the participating health care
33 provider to cure such breach prior to termination or nonrenewal. If the
34 breach has not been cured within such period of time the contract may be
35 terminated or not renewed. Provided however, that if the breach of contract
36 for which the insurance company proposes that the contract be terminated or
37 not renewed is a willful breach, fraud or a breach which poses an immediate
38 danger to the public health or safety, the contract may be terminated or not
39 renewed immediately.

40 (3) Every insurance company issuing benefits pursuant to this chapter
41 shall establish a grievance system for health care providers. Such
42 grievance system shall provide for arbitration according to chapter 9, title

1 7, Idaho Code, or for such other system which provides reasonable due process
2 provisions for the resolution of grievances and the protection of the rights
3 of the parties.

4 (4) Subsections (1) and (2) of this section shall apply to health care
5 provider participation contracts entered into after July 1, 1994.

6 (5) Every insurance company issuing benefits pursuant to this chapter
7 shall not refuse to contract with an otherwise qualified health care
8 provider solely because the health care provider: (a) is not a member of
9 a group, network or any other organization of providers contracting with
10 the insurance company; or (b) does not offer all of the services obtained
11 through the group, network or organization of providers contracting with the
12 insurance company.

13 SECTION 2. That Section 41-3927, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 41-3927. HEALTH CARE PROVIDERS -- PARTICIPATION BY ANY QUALIFIED,
16 WILLING PROVIDER -- CONTRACTS -- GRIEVANCE PROCEDURE. (1) Any managed care
17 organization issuing benefits pursuant to the provisions of this chapter
18 shall be ready and willing at all times to enter into care provider service
19 agreements with all qualified providers of the category or categories which
20 are necessary to provide the health care services covered by an organization
21 if the health care providers: are qualified under the laws of the state of
22 Idaho, desire to become participant providers of the organization, meet
23 the requirements of the organization, and practice within the general area
24 served by the organization.

25 (2) Nothing in this section shall preclude an organization from
26 refusing to contract with a provider who is unqualified or who does not
27 meet the terms and conditions of the organization's participating provider
28 contract or from terminating or refusing to renew the contract of a health
29 care provider who is unqualified or who does not comply with, or who
30 refuses to comply with, the terms and conditions of the participating
31 provider contract including, but not limited to, practice standards and
32 quality requirements. The contract shall provide for written notice to the
33 participating health care provider setting forth any breach of contract
34 for which the organization proposes that the contract be terminated or
35 not renewed and shall provide for a reasonable period of time for the
36 participating health care provider to cure such breach prior to termination
37 or nonrenewal. If the breach has not been cured within such period of time
38 the contract may be terminated or not renewed. Provided however, that if
39 the breach of contract for which the organization proposes that the contract
40 be terminated or not renewed is a willful breach, fraud or a breach which
41 poses an immediate danger to the public health or safety, the contract may be
42 terminated or not renewed immediately.

43 (3) Every managed care organization issuing benefits pursuant to this
44 chapter shall establish a grievance system for providers. Such grievance
45 system shall provide for arbitration according to chapter 9, title 7,
46 Idaho Code, or for such other system which provides reasonable due process
47 provisions for the resolution of grievances and the protection of the rights
48 of the parties.

1 (4) No managed care organization may require as an element of any
2 provider contract that any person agree:

3 (a) To deny a member access to services not covered by the managed care
4 plan if the member is informed that he will be responsible to pay for the
5 noncovered services and the member nonetheless desires to obtain such
6 services;

7 (b) To refrain from treating a member even at that member's request
8 and expense if the provider had been, but is no longer, a contracting
9 provider under the managed care plan and the provider has notified the
10 member that the provider is no longer a contracting provider under the
11 managed care plan;

12 (c) To the unnegotiated adjustment by the managed care organization
13 of the provider's contractual reimbursement rate to equal the lowest
14 reimbursement rate the provider has agreed to charge any other payor;

15 (d) To a requirement that the provider adjust, or enter into
16 negotiations to adjust, his or her charges to the managed care
17 organization if the provider agrees to charge another payor lower
18 rates; or

19 (e) To a requirement that the provider disclose his or her contractual
20 reimbursement rates from other payors.

21 (5) A managed care organization shall not refuse to contract with
22 or compensate for covered services an otherwise eligible provider or
23 nonparticipating provider solely because the provider has in good faith
24 communicated with one (1) or more current, former, or prospective patient
25 regarding the provisions, terms or requirements of the organization's
26 products as they relate to the needs of the provider's patients.

27 (6) A managed care organization shall not refuse to contract with an
28 otherwise eligible provider solely because the provider: (a) is not a member
29 of a group, network or any other organization of providers contracting
30 with the managed care organization; or (b) does not offer all of the
31 services obtained through the group, network or organization of providers
32 contracting with the managed care organization.

33 (7) As part of a provider contract, a managed care organization
34 may require a provider to indemnify and hold harmless the managed care
35 organization under certain circumstances so long as the managed care
36 organization also agrees to indemnify and hold harmless the provider under
37 comparable circumstances.

38 (78) On request and within a reasonable time, a managed care
39 organization shall make available to any party to a provider contract
40 any documents referred to or adopted by reference in the contract except for
41 information which is proprietary or a trade secret or confidential personnel
42 records.

43 (89) A managed care organization shall permit a contracting provider
44 who is practicing in conformity with community standards to advocate for his
45 patient without being subject to termination or penalty for the sole reason
46 of such advocacy.

47 (910) Subsections (1) and (2) of this section shall apply to provider
48 participation contracts entered into after July 1, 1994.