

HOUSE BILL No. 1217

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-11; IC 27-13-15.

Synopsis: Notice of change to provider agreement. Requires an insurer and a health maintenance organization to provide a contracted provider with a current reimbursement rate schedule: (1) every two years; and (2) when three or more CPT code rates change in a 12 month period. Requires an insurer and a health maintenance organization to provide a contracted provider with notice of a proposed material change to the agreement between the insurer or health maintenance organization and the contracted provider at least 90 days prior to the proposed effective date. Establishes requirements for the contents of a notice of a proposed material change. Requires an insurer or health maintenance organization to provide a contracted provider with notice at least 15 days prior to a change to an existing prior authorization, precertification, notification, referral program, edit program, or specific edits.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Financial Institutions and Insurance.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1217

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-11-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) An insurer may:
3 (1) enter into agreements with providers relating to terms and
4 conditions of reimbursement for health care services that may be
5 rendered to insureds of the insurer, including agreements relating
6 to the amounts to be charged the insured for services rendered or
7 the terms and conditions for activities intended to reduce
8 inappropriate care;
9 (2) issue or administer policies in this state that include incentives
10 for the insured to utilize the services of a provider that has entered
11 into an agreement with the insurer under subdivision (1); and
12 (3) issue or administer policies in this state that provide for
13 reimbursement for expenses of health care services only if the
14 services have been rendered by a provider that has entered into an
15 agreement with the insurer under subdivision (1).
16 (b) Before entering into any agreement under subsection (a)(1), an
17 insurer shall establish terms and conditions that must be met by



1 providers wishing to enter into an agreement with the insurer under
 2 subsection (a)(1). These terms and conditions may not discriminate
 3 unreasonably against or among providers. For the purposes of this
 4 subsection, neither differences in prices among hospitals or other
 5 institutional providers produced by a process of individual negotiation
 6 nor price differences among other providers in different geographical
 7 areas or different specialties constitutes unreasonable discrimination.
 8 Upon request by a provider seeking to enter into an agreement with an
 9 insurer under subsection (a)(1), the insurer shall make available to the
 10 provider a written statement of the terms and conditions that must be
 11 met by providers wishing to enter into an agreement with the insurer
 12 under subsection (a)(1).

13 (c) No hospital, physician, pharmacist, or other provider designated
 14 in IC 27-8-6-1 willing to meet the terms and conditions of agreements
 15 described in this section may be denied the right to enter into an
 16 agreement under subsection (a)(1). When an insurer denies a provider
 17 the right to enter into an agreement with the insurer under subsection
 18 (a)(1) on the grounds that the provider does not satisfy the terms and
 19 conditions established by the insurer for providers entering into
 20 agreements with the insurer, the insurer shall provide the provider with
 21 a written notice that:

- 22 (1) explains the basis of the insurer's denial; and
- 23 (2) states the specific terms and conditions that the provider, in
 24 the opinion of the insurer, does not satisfy.

25 (d) In no event may an insurer deny or limit reimbursement to an
 26 insured under this chapter on the grounds that the insured was not
 27 referred to the provider by a person acting on behalf of or under an
 28 agreement with the insurer.

- 29 (e) No cause of action shall arise against any person or insurer for:
- 30 (1) disclosing information as required by this section; or
 - 31 (2) the subsequent use of the information by unauthorized
 32 individuals.

33 Nor shall such a cause of action arise against any person or provider for
 34 furnishing personal or privileged information to an insurer. However,
 35 this subsection provides no immunity for disclosing or furnishing false
 36 information with malice or willful intent to injure any person, provider,
 37 or insurer.

38 (f) Nothing in this chapter abrogates the privileges and immunities
 39 established in IC 34-30-15 (or IC 34-4-12.6 before its repeal).

40 **(g) An insurer that enters into an agreement with a provider**
 41 **under subsection (a)(1) must provide the provider a current**
 42 **reimbursement rate schedule:**



- 1 (1) every two (2) years; and
 2 (2) when three (3) or more CPT code (as defined in
 3 IC 27-1-37.5-3) rates under the agreement are changed in a
 4 twelve (12) month period.

5 SECTION 2. IC 27-8-11-14 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2021]: Sec. 14. (a) As used in this section, "contracted provider"
 8 means a provider that has entered into an agreement with an
 9 insurer under section 3 of this chapter.

10 (b) As used in this section, "material change" means a change
 11 to an agreement between a contracted provider and an insurer
 12 under section 3 of this chapter, the occurrence and timing of which
 13 is not otherwise clearly identified in the agreement, that:

- 14 (1) decreases the contracted provider's payment or
 15 compensation; or
 16 (2) changes the administrative procedures in a way that may
 17 reasonably be expected to significantly increase the
 18 contracted provider's administrative expense.

19 The term includes changes to network requirements and inclusion
 20 in any new or modified insurance products.

21 (c) Each insurer offering a preferred provider plan must
 22 establish procedures for modifying an existing agreement with a
 23 contracted provider that meet the requirements of this section.

24 (d) If an insurer offering a preferred provider plan intends to
 25 make a material change to an agreement it has entered into with a
 26 contracted provider for the provision of health care services, the
 27 insurer must provide the contracted provider with notice at least
 28 ninety (90) days prior to the proposed effective date of the material
 29 change. The notice must include:

- 30 (1) the proposed effective date of the material change;
 31 (2) a description of the material change;
 32 (3) a statement that the contracted provider has the option to
 33 either accept or reject the material change under this section;
 34 (4) the name, business address, telephone number, and
 35 electronic mail address of a representative of the insurer who
 36 may discuss the material change, if requested by the
 37 contracted provider;
 38 (5) notice of the opportunity to request a meeting using real
 39 time communication or to communicate via electronic mail to
 40 discuss the material change, if requested by the contracted
 41 provider; and
 42 (6) notice that upon three (3) material changes in a twelve (12)



1 month period, the contracted provider may request a copy of
2 the agreement with the material changes incorporated into it.
3 **Provision of a copy of the agreement by the insurer is for**
4 **informational purposes only and does not affect the terms and**
5 **conditions of the agreement.**

6 (e) If a proposed material change relates to the contracted
7 **provider's inclusion in any new or modified insurance products or**
8 **proposes changes to the contracted provider's networks:**

9 (1) the material change will only take effect upon the
10 acceptance of the contracted provider, evidenced by a written
11 signature; and

12 (2) the notice of the material change must be sent by certified
13 mail, return receipt requested.

14 (f) For any other proposed material change not addressed in
15 **subsection (e), the following requirements apply:**

16 (1) The material change must take effect on the date provided
17 in the notice, unless the contracted provider objects to the
18 change under subdivision (2).

19 (2) A contracted provider who wishes to object to a material
20 change under this subsection must do so in writing, and the
21 written protest must be delivered not later than thirty (30)
22 days after the date the contracted provider receives notice of
23 the material change.

24 (3) Not later than thirty (30) days after the insurer receives
25 the contracted provider's objection under subdivision (2), the
26 insurer and the contracted provider must confer in an effort
27 to reach an agreement on the material change or any
28 counter-proposals offered by the contracted provider.

29 (4) If the insurer and the contracted provider fail to reach an
30 agreement during the thirty (30) day period as described in
31 subdivision (3), the insurer and the contracted provider are
32 allowed thirty (30) days to unwind their relationship, provide
33 notice to patients and other affected parties, and terminate
34 the agreement pursuant to its original terms.

35 (5) The notice of a material change under this subsection must
36 be sent in an orange-colored envelope with the phrase
37 "ATTENTION! AGREEMENT AMENDMENT
38 ENCLOSED!" in at least 14 point bold font printed on the
39 front of the envelope. This color of envelope must be used for
40 the sole purpose of communicating material changes and may
41 not be used for other types of communication from an insurer.

42 (g) If an insurer offering a preferred provider plan makes a



1 change to an agreement that changes an existing prior
 2 authorization, precertification, notification, or referral program,
 3 or changes an edit program or specific edits, the insurer must
 4 provide notice of the change to a contracted provider not later than
 5 fifteen (15) days prior to the change.

6 (h) Any notice required to be mailed under this section must be
 7 sent to the contracted provider's point of contact, as set forth in the
 8 agreement. If no point of contact is set forth in the agreement, the
 9 insurer must send the notice to the contracted provider's place of
 10 business, addressed to the contracted provider.

11 SECTION 3. IC 27-13-15-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) A contract
 13 between a health maintenance organization and a participating provider
 14 of health care services:

15 (1) must be in writing;

16 (2) may not prohibit the participating provider from disclosing:

17 (A) the terms of the contract as it relates to financial or other
 18 incentives to limit medical services by the participating
 19 provider; or

20 (B) all treatment options available to an insured, including
 21 those not covered by the insured's policy;

22 (3) may not provide for a financial or other penalty to a provider
 23 for making a disclosure permitted under subdivision (2); and

24 (4) must provide that in the event the health maintenance
 25 organization fails to pay for health care services as specified by
 26 the contract, the subscriber or enrollee is not liable to the
 27 participating provider for any sums owed by the health
 28 maintenance organization.

29 (b) An enrollee is not entitled to coverage of a health care service
 30 under a group or an individual contract unless that health care service
 31 is included in the enrollee's contract.

32 (c) A provider is not entitled to payment under a contract for health
 33 care services provided to an enrollee unless the provider has a contract
 34 or an agreement with the carrier.

35 (d) **A health maintenance organization that enters into a
 36 contract with a participating provider must provide the
 37 participating provider with a current reimbursement rate
 38 schedule:**

39 (1) every two (2) years; and

40 (2) when three (3) or more CPT code (as defined in
 41 IC 27-1-37.5-3) rates under the contract change in a twelve

42 (12) month period.



1 ~~(d)~~ (e) This section applies to a contract entered, renewed, or
2 modified after June 30, 1996.

3 SECTION 4. IC 27-13-15-7 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2021]: **Sec. 7. (a) As used in this section, "material change"**
6 **means a change to a contract between a participating provider and**
7 **a health maintenance organization, the occurrence and timing of**
8 **which is not otherwise clearly identified in the contract, that:**

9 (1) decreases the participating provider's payment or
10 compensation; or

11 (2) changes the administrative procedures in a way that may
12 reasonably be expected to significantly increase the
13 participating provider's administrative expense.

14 The term includes changes to network requirements and inclusion
15 in any new or modified insurance products.

16 (b) A health maintenance organization must establish
17 procedures for modifying an existing contract with a participating
18 provider that meet the requirements of this section.

19 (c) If a health maintenance organization intends to make a
20 material change to a contract it has entered into with a
21 participating provider for the provision of health care services, the
22 health maintenance organization must provide the participating
23 provider with notice at least ninety (90) days prior to the proposed
24 effective date of the material change. The notice must include:

25 (1) the proposed effective date of the material change;

26 (2) a description of the material change;

27 (3) a statement that the participating provider has the option
28 to either accept or reject the material change under this
29 section;

30 (4) the name, business address, telephone number, and
31 electronic mail address of a representative of the health
32 maintenance organization who may discuss the material
33 change, if requested by the participating provider;

34 (5) notice of the opportunity to request a meeting using real
35 time communication or to communicate via electronic mail to
36 discuss the material change, if requested by the participating
37 provider; and

38 (6) notice that upon three (3) material changes in a twelve (12)
39 month period, the participating provider may request a copy
40 of the contract with the material changes incorporated into it.

41 Provision of a copy of the contract by the health maintenance
42 organization is for informational purposes only and does not affect



1 the terms and conditions of the contract.

2 (d) If a proposed material change relates to a participating
3 provider's inclusion in any new or modified insurance products or
4 proposes changes to a participating provider's networks:

5 (1) the material change will only take effect upon the
6 acceptance of the participating provider, evidenced by a
7 written signature; and

8 (2) the notice of the material change must be sent by certified
9 mail, return receipt requested.

10 (e) For any other proposed material change not addressed in
11 subsection (d), the following requirements apply:

12 (1) The material change must take effect on the date provided
13 in the notice, unless the participating provider objects to the
14 change under subdivision (2).

15 (2) A participating provider who wishes to object to a
16 material change under this subsection must do so in writing,
17 and the written protest must be delivered not later than thirty
18 (30) days after the date the participating provider receives
19 notice of the material change.

20 (3) Not later than thirty (30) days after the health
21 maintenance organization receives the participating
22 provider's objection under subdivision (2), the health
23 maintenance organization and the participating provider
24 must confer in an effort to reach an agreement on the
25 material change or any counter-proposals offered by the
26 participating provider.

27 (4) If the health maintenance organization and the
28 participating provider fail to reach an agreement during the
29 thirty (30) day period as described in subdivision (3), the
30 health maintenance organization and the participating
31 provider are allowed thirty (30) days to unwind their
32 relationship, provide notice to patients and other affected
33 parties, and terminate the contract pursuant to its original
34 terms.

35 (5) The notice of a material change under this subsection must
36 be sent in an orange-colored envelope with the phrase
37 "ATTENTION! AGREEMENT AMENDMENT
38 ENCLOSED!" in at least 14 point bold font printed on the
39 front of the envelope. This color of envelope must be used for
40 the sole purpose of communicating material changes and may
41 not be used for other types of communication from a health
42 maintenance organization.



1 **(f) If a health maintenance organization makes a change to a**
2 **contract that changes an existing prior authorization,**
3 **precertification, notification, or referral program, or changes an**
4 **edit program or specific edits, the health maintenance organization**
5 **must provide notice of the change to a participating provider not**
6 **later than fifteen (15) days prior to the change.**

7 **(g) Any notice required to be mailed under this section must be**
8 **sent to the participating provider's point of contact, as set forth in**
9 **the contract. If no point of contact is set forth in the contract, the**
10 **health maintenance organization must send the notice to the**
11 **participating provider's place of business, addressed to the**
12 **participating provider.**

