

HOUSE BILL No. 1383

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-21-18; IC 25-22.5-18; IC 27-2-28.

Synopsis: Withdrawal from Medicare advantage networks. Provides that a hospital, physician, or physician group: (1) may not withdraw from a Medicare advantage network for any part of a calendar year after the calendar year has begun; (2) may withdraw from a Medicare advantage network only for an entire calendar year; and (3) may withdraw for an entire calendar year only by giving notice of the withdrawal to the insurer that operates the Medicare advantage plan not later than September 1 immediately preceding the calendar year. Provides that an insurer operating a Medicare advantage plan: (1) may not remove a hospital, physician, or physician group from the Medicare advantage plan's Medicare advantage network for any part of a calendar year after the calendar year has begun; (2) may remove a hospital, physician, or physician group from the Medicare advantage network only for an entire calendar year; and (2) may remove a hospital, physician, or physician group from the Medicare advantage network for a calendar year only by giving notice of the removal to the hospital, physician, or physician group not later than September 1 immediately preceding the calendar year. Makes certain exceptions. Provides that notice of the withdrawal or removal of a hospital, physician, or physician group from a Medicare advantage network must be given by letter, telephone message, or electronic mail message at least 60 days before the withdrawal or removal to each individual who is covered by the Medicare advantage plan and who, not more than two years before the date of the withdrawal or removal, was seen or treated by the physician or a physician of the physician group or was an inpatient in or received medical treatment in the hospital. Empowers the insurance commissioner to impose penalties for violations and authorizes the insurance commissioner to adopt administrative rules.

Effective: July 1, 2022.

VanNatter, Carbaugh

January 11, 2022, read first time and referred to Committee on Public Health.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1383

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 16-21-18 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:

4 **Chapter 18. Hospital Inclusion in a Medicare Advantage**
5 **Network**

6 **Sec. 1. As used in this chapter, "Medicare advantage network"**
7 **means a network of health care providers through which a**
8 **Medicare advantage plan provides Medicare services. The term**
9 **includes:**

10 (1) a health management organization; and

11 (2) a preferred provider organization;

12 **through which a Medicare advantage plan provides Medicare**
13 **services.**

14 **Sec. 2. As used in this chapter, "Medicare advantage plan"**
15 **means a plan operated by an insurer approved by the federal**
16 **Centers for Medicare and Medicaid Services to provide inpatient**
17 **services, medical and surgical services, laboratory services, and**



1 medical supplies under Medicare Part C.

2 Sec. 3. (a) Except as provided in subsection (b), a hospital that
3 is included in a Medicare advantage network:

4 (1) may not withdraw from the Medicare advantage network
5 for any part of a calendar year after the calendar year has
6 begun;

7 (2) may withdraw from the Medicare advantage network only
8 for an entire calendar year; and

9 (3) may withdraw from the Medicare advantage network for
10 an entire calendar year only by giving notice of the hospital's
11 withdrawal to the insurer that operates the Medicare
12 advantage plan not later than September 1 immediately
13 preceding the calendar year.

14 (b) Subsection (a) does not prohibit a hospital from withdrawing
15 from a Medicare advantage network during a calendar year or
16 after September 1 immediately preceding a calendar year if:

17 (1) there is a change in ownership of the hospital;

18 (2) the insurer operating the Medicare advantage plan:

19 (A) violates the terms of the contract under which the
20 hospital is included in the Medicare advantage network; or

21 (B) engages in illegal, tortious, or unethical conduct
22 involving or directly affecting the hospital; or

23 (3) it becomes impossible for the hospital to perform its duties
24 as a health care provider included in the Medicare advantage
25 network.

26 SECTION 2. IC 25-22.5-18 IS ADDED TO THE INDIANA CODE
27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2022]:

29 Chapter 18. Physician Inclusion in a Medicare Advantage
30 Network

31 Sec. 1. As used in this chapter, "Medicare advantage network"
32 means a network of health care providers through which a
33 Medicare advantage plan provides Medicare services. The term
34 includes:

35 (1) a health management organization; and

36 (2) a preferred provider organization;

37 through which a Medicare advantage plan provides Medicare
38 services.

39 Sec. 2. As used in this chapter, "Medicare advantage plan"
40 means a plan operated by an insurer approved by the federal
41 Centers for Medicare and Medicaid Services to provide inpatient
42 services, medical and surgical services, laboratory services, and



1 medical supplies under Medicare Part C.

2 Sec. 3. As used in this chapter, "physician group" means:

- 3 (1) a partnership or other organization of physicians; or
 4 (2) an entity that employs physicians.

5 Sec. 4. (a) Except as provided in subsections (b) and (c), a
 6 physician or physician group included in a Medicare advantage
 7 network:

8 (1) may not withdraw from the Medicare advantage network
 9 for any part of a calendar year after the calendar year has
 10 begun;

11 (2) may withdraw from the Medicare advantage network only
 12 for an entire calendar year; and

13 (3) may withdraw from the Medicare advantage network for
 14 an entire calendar year only by giving notice of the
 15 physician's or physician group's withdrawal to the insurer
 16 that operates the Medicare advantage plan not later than
 17 September 1 immediately preceding the calendar year.

18 (b) Subsection (a) does not prohibit a physician from
 19 withdrawing from a Medicare advantage network during a
 20 calendar year or after September 1 immediately preceding a
 21 calendar year if:

22 (1) the physician's license issued under IC 25-22.5 is
 23 suspended or revoked;

24 (2) the insurer operating the Medicare advantage plan:

25 (A) violates the terms of the contract under which the
 26 physician is included in the Medicare advantage network;
 27 or

28 (B) engages in illegal, tortious, or unethical conduct
 29 involving or directly affecting the physician; or

30 (3) it becomes impossible for the physician to perform the
 31 physician's duties as a health care provider included in the
 32 Medicare advantage network.

33 (c) Subsection (a) does not prohibit a physician group from
 34 withdrawing from a Medicare advantage network during a
 35 calendar year or after September 1 immediately preceding a
 36 calendar year if:

37 (1) there is a change in:

38 (A) ownership; or

39 (B) the controlling majority of the members of;

40 the physician group;

41 (2) the insurer operating the Medicare advantage plan:

42 (A) violates the terms of the contract under which the



physician group is included in the Medicare advantage network; or

(B) engages in illegal, tortious, or unethical conduct involving or directly affecting the physician group; or

(3) it becomes impossible for the physician group to perform its duties as a health care provider included in the Medicare advantage network.

SECTION 3. IC 27-2-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 28. Inclusion of Hospital or Physician in Medicare Advantage Network

Sec. 1. As used in this chapter, "Medicare advantage network" means a network of health care providers through which a Medicare advantage plan provides Medicare services. The term includes:

- (1) a health management organization; and
- (2) a preferred provider organization;

through which a Medicare advantage plan provides Medicare services.

Sec. 2. As used in this chapter, "Medicare advantage plan" means a plan operated by an insurer approved by the federal Centers for Medicare and Medicaid Services to provide inpatient services, medical and surgical services, laboratory services, and medical supplies under Medicare Part C.

Sec. 3. (a) Except as provided in subsections (b), (c), and (d) an insurer that operates a Medicare advantage plan:

- (1) may not remove a hospital, physician, or physician group from the Medicare advantage plan's Medicare advantage network for any part of a calendar year after the calendar year has begun;
- (2) may remove a hospital, physician, or physician group from a Medicare advantage network only for an entire calendar year; and
- (3) may remove a hospital, physician, or physician group from the Medicare advantage network for a calendar year only by giving notice of the removal to the hospital, physician, or physician group not later than September 1 immediately preceding the calendar year.

(b) Subsection (a) does not prohibit an insurer from removing a hospital from a Medicare advantage network during a calendar year or after September 1 immediately preceding a calendar year



1 if:

2 (1) there is a change in ownership of the hospital;

3 (2) the hospital:

4 (A) violates the terms of the contract under which the
5 hospital is included in the Medicare advantage network; or

6 (B) engages in illegal, tortious, or unethical conduct
7 involving or directly affecting the insurer; or

8 (3) it becomes impossible for the hospital to perform its duties
9 as a health care provider included in the Medicare advantage
10 network.

11 (c) Subsection (a) does not prohibit an insurer from removing
12 a physician from a Medicare advantage network during a calendar
13 year or after September 1 immediately preceding a calendar year
14 if:

15 (1) the physician's license issued under IC 25-22.5 is
16 suspended or revoked;

17 (2) the physician:

18 (A) violates the terms of the contract under which the
19 physician is included in the Medicare advantage network;
20 or

21 (B) engages in illegal, tortious, or unethical conduct
22 involving or directly affecting the insurer; or

23 (3) it becomes impossible for the physician to perform the
24 physician's duties as a health care provider included in the
25 Medicare advantage network.

26 (d) Subsection (a) does not prohibit an insurer from removing
27 a physician group from a Medicare advantage network during a
28 calendar year or after September 1 immediately preceding a
29 calendar year if:

30 (1) there is a change in:

31 (A) ownership; or

32 (B) the controlling majority of the members of;

33 the physician group;

34 (2) the physician group:

35 (A) violates the terms of the contract under which the
36 physician group is included in the Medicare advantage
37 network; or

38 (B) engages in illegal, tortious, or unethical conduct
39 involving or directly affecting the insurer; or

40 (3) it becomes impossible for the physician group to perform
41 its duties as a health care provider included in the Medicare
42 advantage network.



1 **Sec. 4. (a) This section applies to the withdrawal or removal of**
 2 **a hospital, physician, or physician group from a Medicare**
 3 **advantage network regardless of when the withdrawal or removal**
 4 **takes effect.**

5 **(b) At least sixty (60) days before a hospital, physician, or**
 6 **physician group withdraws from a Medicare advantage network,**
 7 **the hospital, physician, or physician group shall provide notice of**
 8 **the withdrawal under subsection (d).**

9 **(c) At least sixty (60) days before the insurer operating a**
 10 **Medicare advantage plan removes a hospital, physician, or**
 11 **physician group from the Medicare advantage plan's Medicare**
 12 **advantage network, the insurer shall provide notice of the**
 13 **withdrawal or removal under subsection (d).**

14 **(d) Notice of the withdrawal or removal of a hospital, physician,**
 15 **or physician group from a Medicare advantage network must be**
 16 **provided by letter, telephone message, or electronic mail message**
 17 **to each individual who is covered by the Medicare advantage plan**
 18 **and who, not more than two (2) years before the date of**
 19 **withdrawal or removal of the hospital, physician, or physician**
 20 **group from the Medicare advantage network:**

21 **(1) was an inpatient in or received medical treatment in the**
 22 **hospital withdrawing or being removed from the Medicare**
 23 **advantage network; or**

24 **(2) was seen or treated by:**

25 **(A) the physician withdrawing or being removed from the**
 26 **Medicare advantage network; or**

27 **(B) a physician of the physician group withdrawing or**
 28 **being removed from the Medicare advantage network.**

29 **Sec. 5. If:**

30 **(1) a hospital:**

31 **(A) withdraws from a Medicare advantage network in**
 32 **violation of IC 16-21-18-3(a); or**

33 **(B) fails to give notice of the hospital's withdrawal from a**
 34 **Medicare advantage network as required by section 4 of**
 35 **this chapter; or**

36 **(2) a physician or physician group:**

37 **(A) withdraws from a Medicare advantage network in**
 38 **violation of IC 25-22.5-18-4(a); or**

39 **(B) fails to give notice of the physician's or physician**
 40 **group's withdrawal from a Medicare advantage network**
 41 **as required by section 4 of this chapter;**

42 **the insurance commissioner, after a hearing under IC 4-21.5-3,**



1 may issue an order prohibiting the hospital, physician, or physician
2 group from inclusion in the Medicare advantage network of any
3 Medicare advantage plan operated by an insurer in Indiana for a
4 period of not more than two (2) years.

5 Sec. 6. If an insurer operating a Medicare advantage plan
6 removes a hospital, physician, or physician group from a Medicare
7 advantage network in violation of section 3(a) of this chapter or
8 fails to give notice of the removal of a hospital, physician, or
9 physician group from a Medicare advantage network as required
10 by section 4 of this chapter, the insurance commissioner, after a
11 hearing under IC 4-21.5-3, may issue an order:

12 (1) imposing a civil penalty of not more than ten thousand
13 dollars (\$10,000) on the insurer;

14 (2) suspending the insurer's certificate of authority for not
15 more than two (2) years; or

16 (3) imposing a civil penalty on the insurer under subdivision
17 (1) and suspending the insurer's certificate of authority under
18 subdivision (2).

19 Sec. 7. The insurance commissioner may adopt rules under
20 IC 4-22-2 to administer this chapter.

