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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HEALTH CARE COSTS

Introduced By: Representatives Walsh, Tanzi, Kennedy, Azzinaro, and Dickinson

Date Introduced: February 09, 2011

Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Section 42-14.5-1.1 of the General Laws in Chapter 42-14.5 entitled "The Rhode Island Health Care Reform Act of 2004 - Health Insurance Oversight" is hereby amended to read as follows:

42-14.5-1.1. Legislative findings. -- The general assembly hereby finds and declares as follows:

(1) A substantial amount of health care services in this state are purchased for the benefit of patients by health care insurers engaged in the provision of health care financing services or is otherwise delivered subject to the terms of agreements between health care insurers and providers of the services.

(2) Health care insurers are able to control the flow of patients to providers of health care services through compelling financial incentives for patients in their plans to utilize only the services of providers with whom the insurers have contracted, including the services of certain providers to whom the insurers pay rates that are more favorable than rates paid to other providers of similar services.

(3) Health care insurers also control the health care services rendered to patients through utilization review programs and other managed care tools and associated coverage and payment policies.

(4) By incorporation or merger the power of health care insurers in markets of this state for health care services has become great enough to create a competitive imbalance, reducing

levels of competition and threatening the availability of high quality, cost-effective health care.

(5) The power of health care insurers to unilaterally impose provider contract terms, including rates to providers, may jeopardize the ability of ~~physicians and other~~ health care providers to deliver the superior quality health care services that have been traditionally available in this state.

(6) Inequitable reimbursement and other unfair payment terms adversely affect quality patient care and access by reducing the resources that health care providers can devote to patient care.

(7) For the protection of the health, safety and welfare of citizens in this state, it is critical that the office of health insurance commissioner be able to: (i) Establish procedures to provide for more efficient administration of health services to citizens of this state; (ii) Implement a more efficient and uniform rate-approval process for the purchase of health services; (iii) Guard the solvency of insurers and providers; and (iv) Control the rising costs of health care in this state, including the costs of the provision of health insurance benefits by employers, and the out-of-pocket costs of health services to persons residing in the state.

(8) Establishing a procedure to require that health insurers pay comparable rates to health care providers for similar services will help improve the efficiency and effectiveness of communications among the insurers and providers, restore competitive balance and improve competition in the markets for health care services in this state, result in fair treatment of health care providers of similar services, and ensure the availability of cost-effective health care services in this state, thereby providing significant benefits to patients.

(9) This act is necessary and proper, and constitutes an appropriate exercise of the authority of this state to regulate the business of insurance and the delivery of health care services in order to control costs and the rate of "medical care" inflation, provide opportunities for innovation in the delivery of health care services, meet widely endorsed social responsibilities, and safeguard the public health and safety of Rhode Islanders.

~~(6)~~ (10) It is the intention of the general assembly to authorize health care providers to jointly discuss with health care insurers topics of concern regarding the provision of quality health care through a committee established by an advisory to the health insurance commissioner.

SECTION 2. Chapter 42-14.5 of the General Laws entitled "The Rhode Island Health Care Reform Act of 2004 - Health Insurance Oversight" is hereby amended by adding thereto the following sections:

42-14.5-5. Hospital provider contracts -- Hearing by director. – (a) Filing. The terms and conditions of any provider contracts between any health insurer regulated by the office of

health insurance commissioner, including any health maintenance organization, and any hospital in this state licensed pursuant to chapter 23-17 of the general laws, including the rates proposed to be paid by any such health insurer to any such hospital, shall be filed by the health insurer at the office of the health insurance commissioner within thirty (30) days after the health insurer and hospital have reached agreement on such terms and conditions. Within thirty (30) days of receipt of any such filing, the health insurance commissioner shall review such provider contracts and rates to determine if: (1) The proposed terms are reasonable, fair and equitable, and the rates set equitably among all hospitals without undue discrimination or preference; and (2) The aggregate reimbursement rates of the hospital are related reasonably to the aggregate costs of the hospital. In making such determination, the health insurance commissioner shall consider any and all applicable standards, measures and guidelines that the health insurance commissioner deems relevant, each weighted as the health insurance commissioner deems appropriate, including without limitation: (i) Per diem payment; (ii) Payment per stay; (iii) Case mix adjusted payment per stay indexed to average payment; (iv) Case mix adjusted payment per stay indexed to Medicare payment; (v) Cost per adjusted discharge; (vi) Uncompensated care; (vii) Teaching costs; (viii) License fee imposed by the department of health or other agency; (ix) DHS payments; (x) Innovative payer methodologies; and (xi) Any publicly reported quality measures, such as department of health licensure surveys and patient satisfaction surveys. In the event that the health insurance commissioner holds any public hearing pursuant to subsection 42-14.5-5(b), the thirty (30) day period in which the health insurance commissioner must make a determination under this subsection 42-14.5-5(a) shall be correspondingly extended for the duration of any such hearing. Any provider contract reviewed under this subsection 42-14.5-5(a), upon approval, shall be effective retroactive to the date of termination of the prior provider contract, prior to any month-to-month extensions.

(b) Public hearing. The health insurance commissioner may hold a public hearing on such rates upon not less than ten (10) days written notice prior to the hearing. The health insurance commissioner, upon the hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he or she deems relevant. The director shall issue a written decision as soon as is reasonably possible following the completion of the hearing, together with the director's rationale for such decision. The decision may approve, disapprove, or modify the rates proposed to be charged by the health insurer.

(c) Procedures. At any hearing held under this section, the health insurer shall be

required to establish that the rates proposed to be paid are consistent with the proper conduct of its business and with the interest of the public.

(d) Filings with the attorney general's office. The health insurer shall provide a copy of the filing of all hospital participating provider contract terms and conditions, including all rates proposed to be paid hospitals, to the department of attorney general for approval simultaneously with the filing at the office of the health insurance commissioner, and the office of the health insurance commissioner and the department of attorney general shall cooperate pursuant to chapter 42-9.1 to assure good quality and affordable heath care.

42-14.5-6. Financial position. – The health insurance commissioner shall require that each hospital disclose publicly: (1) Its financial position; and (2) The verified total costs incurred by the hospital in providing health services. At a minimum, any hospital licensed under chapter 23-17 of the general laws, other than state-operated hospitals, shall annually submit to the office of health insurance commissioner public audited financial statements containing information concerning all hospitals and for profit and/or nonprofit hospital affiliated or related entities. Any hospital or for-profit or nonprofit hospital affiliated or related entity which is not audited by an independent public auditor as a result of limited operations or size shall submit financial statements certified by its chief executive officer.

42-14.5-7. Assessments and fees. – The health insurance commissioner is authorized to establish, from time to time, any fees to be paid by health insurers for the review and approval of hospital provider contracts and fees to be paid by hospitals for the submission of the financial information required by this chapter and any other administration actions deemed necessary by the health insurance commissioner to implement this chapter and any rules and regulations promulgated hereunder. The total cost of review and approval of hospital provider contracts under this chapter, and any rules and regulations promulgated hereunder, shall be borne by the health insurers, any the total cost of accepting and maintaining the submission of hospital financial information under this chapter shall be borne by the hospitals. The fees required under this chapter, and any rules and regulations promulgated hereunder, shall be sufficient to pay for the administrative costs of the review and approval of the hospital provider contracts and the submission and maintenance of the hospital financial information and any other reasonable costs associated with the implementation of this chapter.

42-14.5-8. Public access. – All contract and rate filings, financial statements, and other documents filed or maintained with the health insurance commissioner under this chapter shall be deemed to be public records under subdivision 38-2-2(4) of the Rhode Island access to public records act, and any hearings or other proceedings conducted under this chapter shall be deemed

to be open meetings under section 42-46-3 of the Rhode Island open meetings law.

SECTION 3. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT -- HEALTH CARE COSTS

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This act would establish procedures to provide for more efficient and equitable administration of health care costs.

This act would take effect upon passage.

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