

SENATE BILL 1369

By Yager

AN ACT to amend Tennessee Code Annotated, Title 56,
Chapter 32, relative to health maintenance
organizations.

WHEREAS, primary care providers supervising auxiliary personnel to provide healthcare services in accordance with TennCare regulations are being wrongly discriminated against and are not receiving timely payment for services provided; and

WHEREAS, some HMOs and HMO subcontractors are refusing to provide reimbursement for covered benefits under the TennCare program and have retaliated against providers for asserting their legal rights; and

WHEREAS, the General Assembly is aware that certain HMOs may be taking action to conceal discriminatory conduct against primary care providers and to avoid scrutiny from the General Assembly; and

WHEREAS, it is the intent of the General Assembly to end such discriminatory practices for the benefit of patients covered by the TennCare program to ensure they have adequate and reasonable access to medical care from their local primary care providers; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-32-102(11), is amended by adding the following after "any physician, hospital, or other person that is licensed or otherwise authorized in this state to furnish healthcare services":

, including the direct supervision of any auxiliary personnel acting incident to the provider, who thus should be considered employees of the provider under CMS Pub.

100-02, Ch. 15 § 60.1;

SECTION 2. Tennessee Code Annotated, Section 56-32-126(a), is amended by adding the following at the end of the subsection:

Additionally, any intentional or bad faith retaliation by an HMO for any assertion of any right for prompt payment or discriminating against a provider through nonpayment, despite the provider acting within the scope of that provider's license, yields additional liability in the amount of up to three (3) times the liability for the loss awarded under § 56-7-105 and an award of all reasonable and necessary attorney's fees.

SECTION 3. Tennessee Code Annotated, Section 56-32-126, is amended by adding the following as a new subsection:

The commissioner shall report to the general assembly any HMO or HMO subcontractor that is found to violate subsection (a) by the final, non-appealable judgment of a federal or state court of competent jurisdiction for further sanctions within thirty (30) days of notice of the judgment. Contemporaneously with the commissioner's report of the judgment to the general assembly, the commissioner shall promptly investigate the facts and circumstances surrounding the violation and determine whether the violation was willfully concealed from the general assembly. The commissioner shall report the results no later than ninety (90) days after commencement of the investigation. If the commissioner determines that the violation was willfully concealed, the HMO must be automatically expelled from the TennCare program effective on the thirtieth day following the commissioner's report to the general assembly.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.