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SENATE BILL 5443

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State of Washington

64th Legislature

2015 Regular Session

By Senators Dammeier, Frockt, Parlette, Keiser, Hill, Jayapal, and Chase

Read first time 01/21/15. Referred to Committee on Health Care.

1 AN ACT Relating to disclosure of provider compensation programs  
2 by health plan carriers; and amending RCW 48.43.510.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.43.510 and 2012 c 211 s 26 are each amended to  
5 read as follows:

6 (1) A carrier that offers a health plan may not offer to sell a  
7 health plan to an enrollee or to any group representative, agent,  
8 employer, or enrollee representative without first offering to  
9 provide, and providing upon request, the following information before  
10 purchase or selection:

11 (a) A listing of covered benefits, including prescription drug  
12 benefits, if any, a copy of the current formulary, if any is used,  
13 definitions of terms such as generic versus brand name, and policies  
14 regarding coverage of drugs, such as how they become approved or  
15 taken off the formulary, incentive payments for the prescription of  
16 specific formulary and nonformulary medications, and how consumers  
17 may be involved in decisions about benefits;

18 (b) A listing of exclusions, reductions, and limitations to  
19 covered benefits, and any definition of medical necessity or other  
20 coverage criteria upon which they may be based;

1 (c) A statement of the carrier's policies for protecting the  
2 confidentiality of health information;

3 (d) A statement of the cost of premiums and any enrollee cost-  
4 sharing requirements;

5 (e) A summary explanation of the carrier's review of adverse  
6 benefit determinations and grievance processes;

7 (f) A statement regarding the availability of a point-of-service  
8 option, if any, and how the option operates; (~~and~~))

9 (g) A convenient means of obtaining lists of participating  
10 primary care and specialty care providers, including disclosure of  
11 network arrangements that restrict access to providers within any  
12 plan network. The offer to provide the information referenced in this  
13 subsection (1) must be clearly and prominently displayed on any  
14 information provided to any prospective enrollee or to any  
15 prospective group representative, agent, employer, or enrollee  
16 representative; and

17 (h) Descriptions and justifications for all provider compensation  
18 programs, including any incentive or penalty programs that are  
19 intended to encourage providers to withhold services, or to minimize  
20 or avoid referrals to specialists.

21 (2) Upon the request of any person, including a current enrollee,  
22 prospective enrollee, or the insurance commissioner, a carrier must  
23 provide written information regarding any health care plan it offers,  
24 that includes the following written information:

25 (a) Any documents, instruments, or other information referred to  
26 in the medical coverage agreement;

27 (b) A full description of the procedures to be followed by an  
28 enrollee for consulting a provider other than the primary care  
29 provider and whether the enrollee's primary care provider, the  
30 carrier's medical director, or another entity must authorize the  
31 referral;

32 (c) Procedures, if any, that an enrollee must first follow for  
33 obtaining prior authorization for health care services;

34 (d) A written description of any reimbursement or payment  
35 arrangements, including, but not limited to, capitation provisions,  
36 fee-for-service provisions, and health care delivery efficiency  
37 provisions, between a carrier and a provider or network;

38 (e) Descriptions and justifications for provider compensation  
39 programs, including any incentives or penalties that are intended to

1 encourage providers to withhold services or minimize or avoid  
2 referrals to specialists;

3 (f) An annual accounting of all payments made by the carrier  
4 which have been counted against any payment limitations, visit  
5 limitations, or other overall limitations on a person's coverage  
6 under a plan;

7 (g) A copy of the carrier's review of adverse benefit  
8 determinations grievance process for claim or service denial and its  
9 grievance process for dissatisfaction with care; and

10 (h) Accreditation status with one or more national managed care  
11 accreditation organizations, and whether the carrier tracks its  
12 health care effectiveness performance using the health employer data  
13 information set (HEDIS), whether it publicly reports its HEDIS data,  
14 and how interested persons can access its HEDIS data.

15 (3) Each carrier shall provide to all enrollees and prospective  
16 enrollees a list of available disclosure items.

17 (4) Nothing in this section requires a carrier or a health care  
18 provider to divulge proprietary information to an enrollee, including  
19 the specific contractual terms and conditions between a carrier and a  
20 provider.

21 (5) No carrier may advertise or market any health plan to the  
22 public as a plan that covers services that help prevent illness or  
23 promote the health of enrollees unless it:

24 (a) Provides all clinical preventive health services provided by  
25 the basic health plan, authorized by chapter 70.47 RCW;

26 (b) Monitors and reports annually to enrollees on standardized  
27 measures of health care and satisfaction of all enrollees in the  
28 health plan. The state department of health shall recommend  
29 appropriate standardized measures for this purpose, after  
30 consideration of national standardized measurement systems adopted by  
31 national managed care accreditation organizations and state agencies  
32 that purchase managed health care services; and

33 (c) Makes available upon request to enrollees its integrated plan  
34 to identify and manage the most prevalent diseases within its  
35 enrolled population, including cancer, heart disease, and stroke.

36 (6) No carrier may preclude or discourage its providers from  
37 informing an enrollee of the care he or she requires, including  
38 various treatment options, and whether in the providers' view such  
39 care is consistent with the plan's health coverage criteria, or  
40 otherwise covered by the enrollee's medical coverage agreement with

1 the carrier. No carrier may prohibit, discourage, or penalize a  
2 provider otherwise practicing in compliance with the law from  
3 advocating on behalf of an enrollee with a carrier. Nothing in this  
4 section shall be construed to authorize a provider to bind a carrier  
5 to pay for any service.

6 (7) No carrier may preclude or discourage enrollees or those  
7 paying for their coverage from discussing the comparative merits of  
8 different carriers with their providers. This prohibition  
9 specifically includes prohibiting or limiting providers participating  
10 in those discussions even if critical of a carrier.

11 (8) Each carrier must communicate enrollee information required  
12 in chapter 5, Laws of 2000 by means that ensure that a substantial  
13 portion of the enrollee population can make use of the information.  
14 Carriers may implement alternative, efficient methods of  
15 communication to ensure enrollees have access to information  
16 including, but not limited to, web site alerts, postcard mailings,  
17 and electronic communication in lieu of printed materials.

18 (9) The commissioner may adopt rules to implement this section.  
19 In developing rules to implement this section, the commissioner shall  
20 consider relevant standards adopted by national managed care  
21 accreditation organizations and state agencies that purchase managed  
22 health care services, as well as opportunities to reduce  
23 administrative costs included in health plans.

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