

**304.17C-132 Definitions for section -- Third party access to provider network contract -- Prohibition against dental carrier contract cancellation.**

- (1) As used in this section:
  - (a) "Contracting entity" means a dental carrier, a third-party administrator, or any other person that enters into direct contracts with providers for the delivery of dental services in the ordinary course of business;
  - (b) "Provider network contract" means a contract between a contracting entity and a provider that:
    1. Specifies the rights and responsibilities of the contracting entity; and
    2. Provides for the delivery and payment of dental services to a covered person; and
  - (c) "Third party":
    1. Means an individual or entity that enters into a contract with a contracting entity or with another person to gain access to the dental services or contractual discounts of a provider network contract; and
    2. Does not include an employer or other group for whom the dental carrier or contracting entity provides administrative services.
- (2) A contracting entity may grant a third party access to a provider network contract or a provider's dental services or contractual discounts provided pursuant to a provider network contract if:
  - (a) At the time the provider network contract is entered into or renewed, or when there are material modifications to the provider network contract relevant to granting a third party access to a provider network contract, the dental carrier allows any provider which is part of the dental carrier's provider network to choose to:
    1. Not participate in third-party access to the provider network contract; or
    2. Enter into a provider network contract directly with the health insurer that acquired the provider network;
  - (b) The provider network contract includes the following third-party access provisions:
    1. That the contracting entity may enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity; and
    2. When the contracting entity is a dental carrier:
      - a. That the provider network contract grants third-party access to the provider network;
      - b. The provider chose to participate in third-party access at the time the provider network contract was entered into or renewed; and
      - c. The provider has the right to choose not to participate in third-party access;
  - (c) The third party accessing the provider network contract agrees to comply with

- all of the contract's terms;
- (d) The contracting entity:
    - 1. Identifies all third parties in existence in a list on its Internet Web site, which shall be updated at least once every sixty (60) days;
    - 2. Except for electronic transactions required by the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, requires the third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken; and
    - 3. Makes available a copy of the provider network contract relied on in the adjudication of a claim to a participating provider within thirty (30) days of a request from the provider; and
  - (e) The third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract with the exception of covered dental services that are in progress.
- (3) A dental carrier:
- (a) Shall not cancel or otherwise end a contractual relationship with a provider as a result of the provider opting out of third-party access in accordance with subsection (2)(a) of this section; and
  - (b) When initially contracting with a provider, shall accept a qualified provider even if the provider opts out of a third-party access provision.
- (4) A provider shall not be bound by, or required to provide dental services under, a provider network contract that has been granted to a third party in violation of this section.
- (5) This section shall not apply:
- (a) If access to a provider network contract is granted to:
    - 1. A dental carrier or any other entity operating in accordance with the same brand licensee program as the contracting entity; or
    - 2. An entity that is an affiliate of the contracting entity. A contracting entity shall make a list of its affiliates available to providers on its Internet Web site; or
  - (b) To a provider network contract for dental services provided to beneficiaries of state-sponsored public medical assistance programs, including Medicaid and the Kentucky Children's Health Insurance Program.

**Effective:** July 14, 2022

**History:** Created 2022 Ky. Acts ch. 48, sec. 2, effective July 14, 2022.

**Legislative Research Commission Note** (7/14/2022). 2022 Ky. Acts ch. 48, sec. 8, provides that this statute, which was created by the Act, shall apply to contracts issued, delivered, entered, extended, or renewed on or after July 14, 2022.