

1 AN ACT relating to health insurer contracts with participating providers.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 *(1) An insurer offering or providing a health benefit plan shall not modify, reduce,*
6 *or otherwise affect a participating provider's reimbursement, payment*
7 *methodology, fee schedule, or claim adjudication terms through any provider*
8 *manual, policy update, or other document incorporated by reference into a*
9 *provider agreement.*

10 *(2) Any change to a material term affecting reimbursement shall be effective only by*
11 *written amendment executed by both parties.*

12 *(3) The requirements of this section shall be in addition to any requirement under*
13 *Section 2 of this Act or any other law.*

14 *(4) Any modification, reduction, or other change adopted in violation of this section*
15 *shall be void and unenforceable.*

16 ➔Section 2. KRS 304.17A-235 is amended to read as follows:

17 (1) As used in this section, unless the context requires otherwise:

18 (a) "Material change" means a change to a contract, the occurrence and timing of
19 which is not otherwise clearly identified in the contract, that decreases the
20 health care provider's payment or compensation or changes the administrative
21 procedures in a way that may reasonably be expected to significantly increase
22 the provider's administrative expense, and includes any changes to provider
23 network requirements, or inclusion in any new or modified insurance
24 products; and

25 (b) "Participating provider" means a provider that has entered into an agreement
26 with an insurer to provide health care services.

27 (2) *Except as provided in Section 1 of this Act,* each insurer offering a health benefit

1 plan shall establish procedures for changing an existing agreement with a
2 participating provider that shall include the following requirements:~~[of this~~
3 ~~section.]~~

4 ~~(a)(3)~~ If an insurer offering a health benefit plan makes any material change to
5 an agreement it has entered into with a participating provider for the provision
6 of health care services, the insurer shall provide the participating provider
7 with at least ninety (90) days' notice of the material change. The notice of a
8 material change required under this section shall:

9 ~~1.(a)~~ Provide the proposed effective date of the change;

10 ~~2.(b)~~ Include a description of the material change;

11 ~~3.(c)~~ Include a statement that the participating provider has the option to
12 either accept or reject the proposed material change in accordance with
13 this section;

14 ~~4.(d)~~ Provide the name, business address, telephone number, and
15 email~~[electronic mail]~~ address of a representative of the insurer to
16 discuss the material change, if requested by the participating provider;

17 ~~5.(e)~~ Provide notice of the opportunity for a meeting using real-time
18 communication to discuss the proposed changes if requested by the
19 participating provider. For purposes of this subparagraph~~[paragraph]~~,
20 "real-time communication" means any mode of telecommunications in
21 which all users can exchange information instantly or with negligible
22 latency and includes the use of traditional telephone, mobile telephone,
23 teleconferencing, and videoconferencing. If requested by the provider,
24 the opportunity to communicate to discuss the proposed changes may
25 occur via email~~[electronic mail]~~ instead of real-time communication;
26 and

27 ~~6.(f)~~ Provide notice that upon three (3) material changes in a twelve

1 (12) month period, the provider may request a copy of the contract with
2 material changes consolidated into it. Provision of the copy of the
3 contract by the insurer shall be for informational purposes only and shall
4 have no effect on the terms and conditions of the contract;[~~]~~

5 ~~(b)(4)~~ If a material change relates to the participating provider's inclusion in
6 any new or modified insurance products, or proposes changes to the
7 participating provider's membership networks:

8 ~~1.(a)~~ The material change shall only take effect upon the acceptance of
9 the participating provider, evidenced by a written signature; and

10 ~~2.(b)~~ The notice of the proposed material change shall be sent by
11 certified mail, return receipt requested;[~~]~~

12 ~~(c)(5)~~ For any other material change not addressed in **paragraph (b) of this**
13 ~~subsection(4) of this section~~:

14 ~~1.(a)~~ ~~a.[1.]~~ The material change shall take effect on the date provided in
15 the notice unless the participating provider objects to the change in
16 accordance with this paragraph;

17 ~~b.[2.]~~ A participating provider who objects under this paragraph shall do
18 so in writing and the written protest shall be delivered to the
19 insurer within thirty (30) days of the participating provider's
20 receipt of notice of the proposed material change;

21 ~~c.[3.]~~ Within thirty (30) days following the insurer's receipt of the
22 written objection, the insurer and the participating provider shall
23 confer in an effort to reach an agreement on the proposed change
24 or any counter-proposals offered by the participating provider; and

25 ~~d.[4.]~~ If the insurer and participating provider fail to reach an agreement
26 during the thirty (30) day negotiation period described in
27 **subdivision c. of this** subparagraph[~~3. of this paragraph~~], then

1 thirty (30) days shall be allowed for the parties to unwind their
2 relationship, provide notice to patients and other affected parties,
3 and terminate the contract pursuant to its original terms; and

4 ~~2.(b)~~ The notice of proposed material change shall be sent in an orange-
5 colored envelope with the phrase "ATTENTION! CONTRACT
6 AMENDMENT ENCLOSED!" in no less than fourteen (14) point
7 boldface Times New Roman font printed on the front of the envelope.
8 This color of envelope shall be used for the sole purpose of
9 communicating proposed material changes and shall not be used for
10 other types of communication from an insurer; ~~[-]~~

11 ~~(d)(6)~~ If an insurer issuing a health benefit plan makes a change to an
12 agreement that changes an existing prior authorization, precertification,
13 notification, or referral program, or changes an edit program or specific edits,
14 the insurer shall provide notice of the change to the participating provider at
15 least fifteen (15) days prior to the change; and ~~[-]~~

16 ~~(e)(7)~~ Any notice required to be mailed pursuant to this section shall be sent to
17 the participating provider's point of contact, as set forth in the provider
18 agreement. If no point of contact is set forth in the provider agreement, the
19 insurer shall send the requisite notice to the provider's place of business
20 addressed to the provider.

21 ➔Section 3. This Act applies to contracts entered into or renewed on or after the
22 effective date of this Act.