

**HEALTH REFORM AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends and enacts code sections related to health care insurance and the health care insurance market.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions for the Insurance Code;
- ▶ effective January 1, 2018, merges the regulation of health insurance plans that are offered by managed care organizations into a managed care organization chapter of the Insurance Code;
- ▶ amends the duties of the Office of Consumer Health Services within the Governor's Office of Economic Development to require the office to wind down the small employer health insurance exchange known as Avenue H ~~H~~ → [ , by January 1, 2018 ] ← ~~H~~ ;
- ▶ removes health plan transparency reporting requirements for plans offered on the small employer health insurance exchange;
- ▶ repeals the defined contribution arrangements and the individual and small employer risk adjustment, which are part of the small employer health insurance exchange, effective July 1, 2019;
- ▶ reauthorizes the Health Reform Task Force for two years;
- ▶ establishes the duties of the task force; and
- ▶ makes technical amendments and conforming amendments.

H.B. 336



- 1981 (a) a condition described in Subsection (2) exists;
- 1982 (b) the plan sponsor fails to pay premiums or contributions in accordance with the
- 1983 terms of the contract;
- 1984 (c) the plan sponsor:
- 1985 (i) performs an act or practice that constitutes fraud; or
- 1986 (ii) makes an intentional misrepresentation of material fact under the terms of the
- 1987 coverage;
- 1988 (d) the insurer:
- 1989 (i) elects to discontinue offering a particular health benefit plan product delivered or
- 1990 issued for delivery in this state; and
- 1991 (ii) (A) provides notice of the discontinuation in writing[~~ing~~] to each plan sponsor,
- 1992 employee, or dependent of a plan sponsor or an employee[~~ing~~], at least 90 days before the
- 1993 date the coverage will be discontinued;
- 1994 (B) provides notice of the discontinuation in writing[~~ing~~] to the commissioner[~~ing~~], and
- 1995 ~~(H)~~, and at least three working days [~~prior to~~] before the date the notice is sent to the affected
- 1996 plan sponsors, employees, and dependents of the plan sponsors or employees;
- 1997 (C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase[~~ing~~]
- 1998 ~~(H)~~ all other health benefit plan products currently being offered by the insurer in the market[~~ing~~];
- 1999 ~~or (H)~~ or, in the case of a large employer, any other health benefit ~~H~~ → **[plan-product]**
- 1999a **plans** ← ~~H~~ currently being
- 2000 offered in that market; and
- 2001 (D) in exercising the option to discontinue that product and in offering the option of
- 2002 coverage in this section, acts uniformly without regard to[~~ing~~] the claims experience of a plan
- 2003 sponsor[~~ing~~], any health status-related factor relating to any covered participant or
- 2004 beneficiary[~~ing~~], or any health status-related factor relating to any new participant or
- 2005 beneficiary who may become eligible for the coverage; or
- 2006 (e) the insurer:
- 2007 (i) elects to discontinue all of the insurer's health benefit plans in:
- 2008 (A) the small employer market;
- 2009 (B) the large employer market; or
- 2010 (C) both the small employer and large employer markets; and
- 2011 (ii) (A) provides notice of the discontinuation in writing[~~ing~~] to each plan sponsor,

- 2074 (a) ~~[for a network plan,]~~ if:
- 2075 (i) ~~[the individual no longer]~~ there is no longer an enrollee under the individual health
- 2076 benefit plan who lives, resides, or works in:
- 2077 (A) the service area of the insurer; or
- 2078 (B) the area for which the insurer is authorized to do business; and
- 2079 (ii) coverage is terminated uniformly without regard to any health status-related factor
- 2080 relating to any covered ~~[individual]~~ enrollee; or
- 2081 (b) for coverage made available through an association, if:
- 2082 (i) the ~~[individual's]~~ enrollee's membership in the association ceases; and
- 2083 (ii) the coverage is terminated uniformly without regard to any health status-related
- 2084 factor relating to any covered ~~[individual]~~ enrollee.
- 2085 (3) ~~[A]~~ An individual health benefit plan may be discontinued if:
- 2086 (a) a condition described in Subsection (2) exists;
- 2087 (b) the ~~[individual]~~ enrollee fails to pay premiums or contributions in accordance with
- 2088 the terms of the health benefit plan, including any timeliness requirements;
- 2089 (c) the ~~[individual]~~ enrollee:
- 2090 (i) performs an act or practice in connection with the coverage that constitutes fraud; or
- 2091 (ii) makes an intentional misrepresentation of material fact under the terms of the
- 2092 coverage;
- 2093 (d) the insurer:
- 2094 (i) elects to discontinue offering a particular health benefit ~~[product]~~ plan product
- 2095 delivered or issued for delivery in this state; and
- 2096 (ii) (A) provides notice of the discontinuation in writing~~[-(F)]~~ to each ~~[individual]~~
- 2097 enrollee provided coverage~~[-and (H)]~~ at least 90 days before the date the coverage will be
- 2098 discontinued;
- 2099 (B) provides notice of the discontinuation in writing~~[-(F)]~~ to the commissioner~~[-and~~
- 2100 ~~(H)]~~ and, at least three working days ~~[prior to]~~ before the date the notice is sent, to the affected
- 2101 ~~[individuals]~~ enrollees;
- 2102 (C) offers to each covered ~~[individual]~~ enrollee on a guaranteed issue basis~~[-]~~ the
- 2103 option to purchase all other individual health benefit ~~H→~~ [plan products] plans ~~←H~~ currently
- 2103a being offered by
- 2104 the insurer for individuals in that market; and

2942 ~~[(5) An insurer using preferred health care provider contracts shall provide a~~  
 2943 ~~reasonable procedure for resolving complaints and adverse benefit determinations initiated by~~  
 2944 ~~the insureds and health care providers.]~~

2945 ~~[(6) An insurer may not contract with a health care provider for treatment of illness or~~  
 2946 ~~injury unless the health care provider is licensed to perform that treatment.]~~

2947 ~~[(7)] (6) (a) A health care provider or [insurer] managed care organization may not~~  
 2948 ~~discriminate against a [preferred health care] network provider for agreeing to a contract under~~  
 2949 ~~Subsection [(+) ] (2).~~

2950 (b) (i) ~~Ĥ→ [This Subsection (6)(b) applies] Subsections (6)(b) and (c) apply ←Ĥ~~ to a  
 2950a managed care organization that is described  
 2951 in Subsection (3)(b)(i) and Ĥ→ [does] do ←Ĥ not apply to a managed care organization described  
 2951a in  
 2952 Subsection (3)(b)(ii).

2953 (ii) A health care provider licensed to treat an illness or injury within the scope of the  
 2954 health care provider's practice, ~~[who]~~ that is willing and able to meet the terms and conditions  
 2955 established by the [insurer] managed care organization for designation as a [preferred health  
 2956 care] network provider, shall be able to apply for and receive the designation as a [preferred  
 2957 health care] network provider. Contract terms and conditions may include reasonable  
 2958 limitations on the number of designated [preferred health care] network providers based upon  
 2959 substantial objective and economic grounds, or expected use of particular services based upon  
 2960 prior provider-patient profiles.

2961 ~~[(8)] (c) Upon the written request of a provider excluded from a network provider~~  
 2962 ~~contract, the commissioner may hold a hearing to determine if the [insurer's] managed care~~  
 2963 ~~organization's exclusion of the provider is based on the criteria set forth in Subsection [(7)]~~  
 2964 ~~(6)(b).~~

2965 ~~[(9)] (7) Nothing in this section is to be construed as to require [an insurer] a managed~~  
 2966 ~~care organization to offer a certain benefit or service as part of a health benefit plan.~~

2967 ~~[(10) This section does not apply to catastrophic mental health coverage provided in~~  
 2968 ~~accordance with Section 31A-22-625.]~~

2969 ~~[(H)] (8) Notwithstanding Subsection [(+); (2) or Subsection [(7)] (6)(b), [and Section~~  
 2970 ~~31A-22-618, an insurer] a managed care organization described in Subsection (3)(b)(i) or third~~  
 2971 ~~party administrator is not required to, but may, enter into a contract with a licensed athletic~~  
 2972 ~~trainer, licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.~~

3221 identify the rural counties, independent hospitals, and federally qualified health centers that are  
 3222 located in the [~~health maintenance~~] managed care organization's service area; and

3223 (B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required  
 3224 in Subsection (8)(d)(ii).

3225 (ii) The [~~health maintenance~~] managed care organization shall provide the following  
 3226 notice, in bold type, to enrollees as specified under Subsection (8)(b)(i), and shall keep the  
 3227 notice current:

3228 "You may be entitled to coverage for health care services from the following  
 3229 [~~non-HMO contracted~~] noncontracted providers if you live or reside within 30 paved road  
 3230 miles of the listed providers, or if you live or reside in closer proximity to the listed providers  
 3231 than to your [~~HMO~~] contracted providers:

3232 This list may change periodically, please check on our website or call for verification.  
 3233 Please be advised that if you choose a noncontracted provider you will be responsible for any  
 3234 charges not covered by your health insurance plan.

3235 If you have questions concerning your rights to see a provider on this list you may  
 3236 contact your [~~health maintenance~~] managed care organization at \_\_\_\_\_. If the [~~HMO~~]  
 3237 managed care organization does not resolve your problem, you may contact the Office of  
 3238 Consumer Health Assistance in the Insurance Department, toll free."

3239 (e) A person whose interests are affected by an alleged violation of this section may  
 3240 contact the Office of Consumer Health Assistance and request assistance, or file a complaint as  
 3241 provided in Section 31A-2-216.

3242 Section 37. Section **49-20-407** is amended to read:

3243 **49-20-407. Insurance mandates.**

3244 Notwithstanding the provisions of Subsection 31A-1-103(3)(f):

3245 (1) health coverage offered to the state employee risk pool under Subsection  
 3246 49-20-202(1)(a) shall comply with the provisions of Sections [~~31A-8-501 and~~] 31A-22-605.5  
 3247 and ~~H~~→ [~~31A-45-303;~~] 31A-45-501 ←~~H~~ and

3248 (2) a health plan offered to public school districts, charter schools, and institutions of  
 3249 higher education under Subsection 49-20-201(1)(b) shall comply with the provisions of Section  
 3250 31A-22-605.5.

3251 Section 38. Section **53-2a-1102** is amended to read:

3438 ~~[(i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;]~~  
3439 ~~[(ii) receive producer compensation through the Health Insurance Exchange; and]~~  
3440 ~~[(iii) be designated as the default producer for an employer group that enters the Health~~  
3441 ~~Insurance Exchange without a producer.]~~  
3442 ~~[(5) The consumer health office:]~~  
3443 ~~[(a) may not:]~~  
3444 ~~[(i) regulate health insurers, health insurance plans, health insurance producers, or~~  
3445 ~~health insurance premiums charged in the exchange;]~~  
3446 ~~[(ii) adopt administrative rules, except as provided in Section 63N-11-107; or]~~  
3447 ~~[(iii) act as an appeals entity for resolving disputes between a health insurer and an~~  
3448 ~~insured;]~~  
3449 ~~[(b) may establish and collect a fee for the cost of the exchange transaction in~~  
3450 ~~accordance with Section 63J-1-504 for:]~~  
3451 ~~[(i) processing an application for a health benefit plan;]~~  
3452 ~~[(ii) accepting, processing, and submitting multiple premium payment sources;]~~  
3453 ~~[(iii) providing a mechanism for consumers to filter and compare health benefit plans~~  
3454 ~~in the exchange based on consumer preferences; and]~~  
3455 ~~[(iv) funding the call center; and]~~  
3456 ~~[(c) shall separately itemize the fee established under Subsection (5)(b) as part of the~~  
3457 ~~cost displayed for the employer selecting coverage on the exchange.]~~  
3458 (a) carry out the duties described in Section 63N-11-103;  
3459 (b) maintain the services provided by the office for the Avenue H small employer  
3460 health insurance exchange until ~~H~~→ [January 1, 2018; and] operations of Avenue H end under  
3460a **Subsection (2)(d);**  
3460b **(c) beginning July 1, 2017, enroll or renew a small employer group with a single insurer**  
3460c **selected by the small employer, while allowing for employee choice among health benefit plans**  
3460d **offered by the single insurer selected by the small employer; and**  
3461 ~~[(c)]~~ (d) ~~H~~←~~H~~ take steps necessary to wind down the operations of the Avenue H small  
3461a employer  
3462 health insurance exchange effective ~~H~~→ [January] July ~~H~~←~~H~~ 1, 2018.  
3463 **Section 42. Health Reform Task Force -- Creation -- Membership -- Interim rules**  
3464 **followed -- Compensation -- Staff.**  
3465 (1) There is created the Health Reform Task Force consisting of the following 11  
3466 members:  
3467 (a) four members of the Senate appointed by the president of the Senate, no more than  
3468 three of whom may be from the same political party; and

- 3531 (b) Section 31A-22-618;  
3532 (c) Section 31A-22-618.5;  
3533 (d) Section 31A-22-627;  
3534 (e) Section 31A-22-635;  
3535 (f) Section 31A-22-642;  
3536 (g) Section 31A-45-101;  
3537 (h) Section 31A-45-102;  
3538 (i) Section 31A-45-103;  
3539 (j) Section 31A-45-201;  
3540 (k) Section 31A-45-301;  
3541 (l) Section 31A-45-302;  
3542 (m) Section 31A-45-303;  
3543 (n) Section 31A-45-304;  
3544 (o) Section 31A-45-401;  
3545 (p) Section 31A-45-402;  
3546 (q) Section 31A-45-501;  
3547 (r) Section 49-20-407; and  
3548 (s) Section 58-16a-601.  
3549 (3) The repeal of Section 63N-11-107 takes effect on ~~H~~→ [January] July ←~~H~~ 1, 2018.
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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**