

1 **MANAGED CARE REFORM - LICENSED**
2 **HOSPICE AND HOME HEALTH AGENCIES**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Joseph L. Hull**

6 AN ACT RELATING TO INSURANCE; REQUIRING A HEALTH INSURER TO CONTRACT
7 WITH A HOSPICE OR HOME HEALTH AGENCY THAT IS WILLING TO ACCEPT THE
8 INSURER'S TERMS; AND ESTABLISHING MINIMUM REQUIREMENTS FOR PROVIDER
9 CONTRACTS.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12 **31-22-625**, Utah Code Annotated 1953

13 *Be it enacted by the Legislature of the state of Utah:*

14 Section 1. Section **31-22-625** is enacted to read:

15 **31-22-625. Hospice and home health agency provider contracts.**

16 (1) An insurer shall be ready and willing to enter into a provider service agreement with
17 any hospice or home health agency to provide health care services covered by the insurer if the
18 hospice or home health agency:

19 (a) is licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection

20 Act;

21 (b) desires to become a participating provider of the insurer;

22 (c) meets the standard terms and conditions of the insurer's provider service agreement;

23 and

24 (d) operates within one or more areas served by the insurer.

25 (2) (a) Notwithstanding Subsection (1), an insurer may terminate, refuse to enter into, or
26 refuse to renew a contract with a hospice or home health agency that fails to meet or comply with
27 the standard terms and conditions of the insurer's provider service agreement.

28 (b) The insurer shall:

29 (i) inform a hospice or home health agency in writing of a deficiency or contract breach
30 that serves as the basis for an action described in Subsection (2)(a); and

31 (ii) provide a reasonable time to cure the deficiency or contract breach before finalizing
32 an action described in Subsection (2)(a).

33 (c) Notwithstanding Subsection (2)(b), an insurer may immediately terminate or refuse to
34 renew a contact with a hospice or home health agency if the deficiency or contract breach:

35 (i) is the result of wilful misconduct or fraud; or

36 (ii) poses an immediate threat or danger to the public health or safety.

37 (d) An insurer shall establish a grievance system for providers that protects the due process
38 rights of the parties.

39 (3) An insurer may not deny an insured access to:

40 (a) a hospital or home health service not covered by the insurer if the insured is informed
41 of and is willing to pay in full for the service; or

42 (b) a hospice or home health agency which is no longer a participating provider of the
43 insurer if the insured is informed of the status of the hospice or home health agency as a
44 nonparticipating provider and is willing to pay for the service in full.

45 (4) An insurer may not:

46 (a) refuse to contract with or compensate for covered services an otherwise eligible
47 participating or nonparticipating hospice or home health agency on the ground that the hospice or
48 home health agency communicated, in good faith, with one or more current, former, or prospective
49 patients regarding the provision, terms, or requirements of the insurer's products as they relate to
50 hospice or home health agency patients; or

51 (b) require a participating hospice or home health agency to:

52 (i) automatically, and without negotiation, reduce the reimbursement rate charged to the
53 insurer to an amount equal to the lowest reimbursement rate the hospice or home health agency
54 has agreed to charge another payer;

55 (ii) adjust or enter into negotiations to adjust rates because the hospice or home health
56 agency has agreed to charge another payer lower rates;

57 (iii) disclose contractual reimbursement rates with other payers; or

58 (iv) refrain from discussing with an insured any and all available care options, including

59 options not covered by the insurer.

60 (5) An insurer:

61 (a) may require a participating hospice or home health agency to indemnify and hold
62 harmless the insurer under certain circumstances so long as the insurer also agrees to indemnify
63 and hold harmless the participating hospice or home health agency under comparable
64 circumstances;

65 (b) shall, upon request and within a reasonable time, make available to a participating
66 hospice or home health agency any document referred to or adopted by reference in the provider
67 service agreement, except for information that is proprietary, a trade secret, or constitutes
68 confidential personnel records; and

69 (c) shall permit a participating hospice or home health agency, practicing in conformity
70 with community standards, to advocate for a patient of the hospice or home health agency without
71 being subject to termination or penalty because of the advocacy.

Legislative Review Note

as of 2-25-99 10:05 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel