

**ACCESS TO RURAL HEALTH CARE  
PROVIDERS**

2004 GENERAL SESSION  
STATE OF UTAH

**Sponsor: Leonard M. Blackham**

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**LONG TITLE**

**General Description:**

This bill imposes penalties on a health maintenance organization that violates the access to rural health care providers statute and makes the Public Employees Health Plan subject to the access to rural health care providers statute.

**Highlighted Provisions:**

This bill:

- ▶ imposes penalties on a health maintenance organization that violates the access to rural health care providers statute;
- ▶ gives the commissioner rulemaking authority to enforce the statute;
- ▶ makes the Public Employees Health Plan subject to the access to rural health care provider statute; and
- ▶ amends the definition of independent hospital to include a critical care access hospital.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

AMENDS:

**31A-8-501**, as last amended by Chapter 263, Laws of Utah 2001



28 **49-20-407**, as enacted by Chapter 220, Laws of Utah 2002



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

31 Section 1. Section **31A-8-501** is amended to read:

32 **31A-8-501. Access to health care providers.**

33 (1) As used in this section:

34 (a) "Class of health care provider" means a health care provider or a health care facility  
35 regulated by the state within the same professional, trade, occupational, or certification  
36 category established under Title 58, Occupations and Professions, or within the same facility  
37 licensure category established under Title 26, Chapter 21, Health Care Facility Licensing and  
38 Inspection Act.

39 (b) "Covered health care services" or "covered services" means health care services for  
40 which an enrollee is entitled to receive under the terms of a health maintenance organization  
41 contract.

42 (c) "Credentialed staff member" means a health care provider with active staff  
43 privileges at an independent hospital or federally qualified health center.

44 (d) "Federally qualified health center" means as defined in the Social Security Act, 42  
45 U.S.C. Sec. 1395(x).

46 (e) "Independent hospital" means a general acute hospital or a critical care access  
47 hospital that:

48 (i) is licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and  
49 Inspection Act; and

50 (ii) is controlled by a board of directors of which 51% or more reside in the county  
51 where the hospital is located and:

52 (A) the board of directors is ultimately responsible for the policy and financial  
53 decisions of the hospital; or

54 (B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part,  
55 by an entity that owns or controls a health maintenance organization if the hospital is a  
56 contracting facility of the organization.

57 (f) "Noncontracting provider" means an independent hospital, federally qualified health  
58 center, or credentialed staff member who has not contracted with a health maintenance

59 organization to provide health care services to enrollees of the organization.

60 (2) Except for a health maintenance organization which is under the common  
61 ownership or control of an entity with a hospital located within ten paved road miles of an  
62 independent hospital, a health maintenance organization shall pay for covered health care  
63 services rendered to an enrollee by an independent hospital, a credentialed staff member at an  
64 independent hospital, or a credentialed staff member at his local practice location if:

65 (a) the enrollee:

66 (i) lives or resides within 30 paved road miles of the independent hospital; or

67 (ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the  
68 independent hospital than a contracting hospital;

69 (b) the independent hospital is located prior to December 31, 2000 in a county with a  
70 population density of less than 100 people per square mile, or the independent hospital is  
71 located in a county with a population density of less than 30 people per square mile; and

72 (c) the enrollee has complied with the prior authorization and utilization review  
73 requirements otherwise required by the health maintenance organization contract.

74 (3) A health maintenance organization shall pay for covered health care services  
75 rendered to an enrollee at a federally qualified health center if:

76 (a) the enrollee:

77 (i) lives or resides within 30 paved road miles of the federally qualified health center;

78 or

79 (ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the  
80 federally qualified health center than a contracting provider;

81 (b) the federally qualified health center is located in a county with a population density  
82 of less than 30 people per square mile; and

83 (c) the enrollee has complied with the prior authorization and utilization review  
84 requirements otherwise required by the health maintenance organization contract.

85 (4) (a) A health maintenance organization shall reimburse a noncontracting provider or  
86 the enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as it  
87 pays to contracting providers under a noncapitated arrangement for comparable services.

88 (b) A health maintenance organization shall reimburse a federally qualified health  
89 center or the enrollee for covered services rendered pursuant to Subsection (3) a like amount as

90 paid by the health maintenance organization under a noncapitated arrangement for comparable  
91 services to a contracting provider in the same class of health care providers as the provider who  
92 rendered the service.

93 (5) A noncontracting provider may only refer an enrollee to another noncontracting  
94 provider so as to obligate the enrollee's health maintenance organization to pay for the resulting  
95 services if:

96 (a) the noncontracting provider making the referral or the enrollee has received prior  
97 authorization from the organization for the referral; or

98 (b) the practice location of the noncontracting provider to whom the referral is made:

99 (i) is located in a county with a population density of less than 25 people per square  
100 mile; and

101 (ii) is within 30 paved road miles of:

102 (A) the place where the enrollee lives or resides; or

103 (B) the independent hospital or federally qualified health center at which the enrollee  
104 may receive covered services pursuant to Subsection (2) or (3).

105 (6) Notwithstanding this section, a health maintenance organization may contract  
106 directly with an independent hospital, federally qualified health center, or credentialed staff  
107 member.

108 (7) (a) A health maintenance organization that violates any provision of this section is  
109 subject to the following penalties:

110 (i) \$1,000 for the first violation;

111 (ii) \$5,000 for the second and each additional violation;

112 (iii) costs and attorneys' fees to reimburse;

113 (A) a person who requests an agency action under Subsection (7)(c); and

114 (B) the agency bringing the action to enforce this section; and

115 (iv) any other penalty or remedy as provided in Section 31A-2-308.

116 (b) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the  
117 commissioner shall:

118 (i) adopt rules as necessary to implement this section; and

119 (ii) enforce the provisions of this section and impose sanctions for violations.

120 (c) A person whose interests are effected by an alleged violation of this section may

121 request an agency action to enforce the provisions of this section as provided in Section  
122 63-46b-3.

123 Section 2. Section **49-20-407** is amended to read:

124 **49-20-407. Insurance mandates.**

125 Notwithstanding the provisions of Subsection 31A-1-103(3)(f), health coverage offered  
126 to the state employee risk pool under Subsection 49-20-202(1)(a) shall comply with the  
127 provisions of ~~[Section]~~ Sections 31A-8-501 and 31A-22-605.5.

128 Section 3. **Effective date.**

129 This bill takes effect May 3, 2004, except that the amendments to Section 49-20-407  
130 take effect on July 1, 2004.

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**Legislative Review Note**  
**as of 12-12-03 11:16 AM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

There will be enforcement costs of \$116,500. HMO's would pay the costs of enforcement.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$116,500	\$116,500	\$116,500	\$116,500
<b>TOTAL</b>	<b>\$116,500</b>	<b>\$116,500</b>	<b>\$116,500</b>	<b>\$116,500</b>

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**Individual and Business Impact**

Some individuals may benefit from inforcement. HMO's will have higher costs that would be passed on to consumers.

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**Office of the Legislative Fiscal Analyst**