

1 **PATIENT ACCESS REFORM**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: D. Chris Buttars**

5

LONG TITLE

6 **General Description:**

7
8 This bill amends provisions related to access to health care providers in the Health
9 Maintenance Organization Chapter of the Insurance Code.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ restricts the right of health maintenance organizations with more than a 30% market
13 share in its service area from leasing or brokering the HMO provider panel to other
14 health insurers in the same service area;

15 ▶ provides that a health maintenance organization must reimburse an insured for
16 services of a health care provider who is not under contract if those services are
17 otherwise covered by the insurance plan;

18 ▶ establishes the reimbursement rate for noncontracted providers;

19 ▶ allows the health maintenance organization to impose a deductible for
20 noncontracted providers;

21 ▶ requires the insurer to make payment directly to the health care provider for
22 out-patient services;

23 ▶ clarifies the payment responsibilities of the insured;

24 ▶ prohibits a nonparticipating provider who accepts the 95% reimbursement rate from
25 charging the insured for additional costs; and

26 ▶ allows the health maintenance organization to impose quality control measures on
27 noncontracted health care providers.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **31A-8-409**, Utah Code Annotated 1953

35 **31A-8-503**, Utah Code Annotated 1953



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

38 Section 1. Section **31A-8-409** is enacted to read:

39 **31A-8-409. Leasing of participating provider panels.**

40 (1) The purpose of this section is to:

41 (a) provide improved access to health insurance and health care providers for Utah
42 citizens who reside in geographic areas of the state in which one insurer dominates the market;

43 (b) permit and encourage fair and effective competition between health insurers;

44 (c) prevent monopolistic practices; and

45 (d) continue to assure that organizations offering health benefit plans within this state
46 are financially and administratively sound and able to deliver benefits as promised.

47 (2) For purposes of this section, "service area" means the geographic area within 40
48 miles of the health maintenance organization's facility.

49 (3) A health maintenance organization that has 30% or more of the market share within
50 the health maintenance organization's service area may not lease or rent the health maintenance
51 organization's panel of health care providers to other insurers offering plans or benefits within
52 the health maintenance organization's service area.

53 Section 2. Section **31A-8-503** is enacted to read:

54 **31A-8-503. Reimbursement of noncontracted providers.**

55 (1) As used in this section, "class of health care providers" means all health care
56 providers licensed, or licensed and certified by the state, within the same professional, trade,
57 occupational, or facility licensure, or licensure and certification category established pursuant
58 to Titles 26, Utah Health Code and 58, Occupations and Professions.

59 (2) (a) Subject to Subsections (2)(b) through (2)(d), a health maintenance organization
60 shall pay for the services of providers who are not participating providers with the health
61 maintenance organization, unless the illnesses or injuries treated by the provider are not within
62 the scope of the insured's health maintenance organization's health benefit plan.

63 (b) When the insured receives services from a provider who is not a participating
64 provider for the insured's health maintenance organization benefit plan, the health maintenance
65 organization shall reimburse the insured in an amount equal to at least 95% of the amount that
66 would be paid by the health maintenance organization to a participating provider.

67 (c) When reimbursing for services of out-patient providers who are not participating
68 providers, the health maintenance organization shall make direct payment to the provider.

69 (d) Notwithstanding Subsection (2)(b), a health maintenance organization may:

70 (i) impose a deductible on coverage of a medical condition treated by nonparticipating
71 providers if the deductible is not greater than the deductible imposed on the same medical
72 condition treated by participating providers for the insured's health benefit plan; and

73 (ii) impose the quality assurance requirements of preauthorization and utilization
74 review for services rendered by nonparticipating providers if the preauthorization and
75 utilization review requirements are the same as those imposed for services rendered by
76 participating providers for the insured's health benefit plan.

77 (3) (a) When an insured receives services from a nonparticipating provider who is
78 reimbursed under the provisions of Subsection (2)(b), the insured is responsible for any
79 copayments and deductibles that are imposed by the insurer under Subsection (2)(d).

80 (b) A nonparticipating provider who accepts the 95% reimbursement rate designated in
81 Subsection (2)(b) may not charge the insured for any costs above those designated in
82 Subsection (3)(a).

Legislative Review Note

as of 12-13-04 3:19 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel