



Ohio Legislative Service Commission

Bill Analysis

Nicholas A. Keller

H.B. 497

129th General Assembly
(As Introduced)

Reps. Hackett, Beck, Huffman, Bulp, Johnson, Fende, R. Hagan, Sykes

BILL SUMMARY

- Prohibits a contracting entity from requiring a dental provider to provide services to plan enrollees at a fee set by or subject to approval by the contracting entity unless certain circumstances are met.
- Makes setting or requiring the insurer's approval of fees for dental services an unfair and deceptive act in the business of insurance unless certain circumstances are met.
- Makes the offering of a health benefit plan that sets fees for dental services an unfair and deceptive act in the business of insurance unless certain circumstances are met.

CONTENT AND OPERATION

Contracting for rates on uncovered services

The bill prohibits a contracting entity from requiring, in a health care contract, a dental provider to provide dental services at a fee set by the contracting entity (any person that has a primary business purpose of contracting with participating providers for the delivery of health care services¹) or subject to approval by the contracting entity unless the services in question are "covered dental services."² Covered dental services are those services for which the dental provider is reimbursed at a rate greater than 50% of the provider's prevailing fee for those services, and services for which a reimbursement is available or would be available but for contractual limitations such as

¹ R.C. 3963.01(C).

² R.C. 3963.02(E)(1) and conforming changes in R.C. 1753.07(C) and 1753.09(F)(3).

deductibles, copayments, coinsurance, waiting periods, frequency limitations, alternative benefit payments, or annual or lifetime limits.³

The bill's above prohibition would become part of Ohio's Health Care Contract Law.⁴ Continuing law authorizes the Superintendent of Insurance to conduct a market investigation of any person regulated by the Department of Insurance under Ohio's Insurance Law⁵ or Ohio's Corporation and Partnership Law⁶ to determine whether any violation of the Health Care Contract Law has occurred. When conducting such an examination, the Superintendent may assess the costs of the examination against the person examined. The Superintendent may enter into a consent agreement to impose any administrative assessment or fine for conduct discovered that may be a violation of the Health Care Contract Law. In addition, a series of violations of the Health Care Contract Law by any person regulated by the Department of Insurance that, taken together, constitute a pattern or practice of violating that Law may constitute an unfair and deceptive insurance practice.⁷

The bill also makes it an unfair or deceptive practice in the business of insurance to set or require the insurer's approval of fees for dental services that are not covered dental services or to make available a health benefit plan that sets fees for dental services that are not covered dental services.⁸

Under continuing law, a person who is found to have committed an unfair or deceptive practice in the business of insurance is subject to any or all of the following sanctions:

- Suspension or revocation of the person's license to engage in the practice of insurance;
- Prohibition on an insurance company or insurance agency employing the person or permitting the person to serve the company or agency in any capacity for a period of time;
- Return of any payments received by the person as a result of the violation;

³ R.C. 3963.01(D)(1) and a conforming change in R.C. 3963.03(B).

⁴ R.C. Chapter 3963.

⁵ R.C. Title 39.

⁶ R.C. Title 17.

⁷ R.C. 3963.09 (not in the bill).

⁸ R.C. 3901.21(BB)(1).

- Fees for attorneys and other costs of any investigation into the violations committed by the person.⁹

ERISA

The bill's prohibitions do not apply in cases where they are in conflict with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.*, as amended.¹⁰

HISTORY

ACTION	DATE
Introduced	03-27-12

H0497-I-129.docx/jc

⁹ R.C. 3901.22.

¹⁰ R.C. 3901.21(BB)(2) and 3963.02(E)(2).

