

# HOUSE BILL No. 1351

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-7-18; IC 27-8-11-14.

**Synopsis:** Dental matters. Provides that if an insured assigns the insured's rights to benefits for dental services to the provider of the dental services, the insurer shall pay the benefits assigned by the insured to the provider of the dental services. Prohibits a third party administrator or another person from arranging for a dental provider to provide dental services for a dental plan that sets the amount of the fee for any dental services unless the dental services are covered services under the dental plan. Provides that a contracting entity (a dental carrier, a third party administrator, or another person that enters into a provider network contract with providers of dental services) may not grant a third party access to the provider network contract or to dental services or contractual discounts provided pursuant to the provider network contract unless certain conditions are satisfied. Provides that when a dental provider network contract is entered into, renewed, or materially modified, any provider that is a party to the network contract must be allowed to choose not to participate in the third party access. Prohibits a contracting entity from: (1) altering the rights or status under a provider network contract of a dental provider that chooses not to participate in third party access; or (2) rejecting a provider as a party to a provider network contract because the provider chose not to participate in third party access. Authorizes the insurance commissioner to issue a cease and desist order against a person that violates any of these prohibitions and, if the person violates the cease and desist order, to impose a civil penalty upon the person and suspend or revoke the person's certificate of authority.

**Effective:** July 1, 2024.

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## Zent, Snow, Fleming

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January 10, 2024, read first time and referred to Committee on Insurance.

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Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1351



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-7-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2024]:  
4 **Chapter 18. Third Party Access to Dental Provider Networks**  
5 **Sec. 1. As used in this chapter, "contracting entity" means a**  
6 **dental carrier, a third party administrator, or another person that**  
7 **enters into a provider network contract with providers for the**  
8 **delivery of dental services in the ordinary course of business.**  
9 **Sec. 2. As used in this chapter, "covered individual" means an**  
10 **individual who is entitled to:**  
11 **(1) dental services; or**  
12 **(2) coverage of dental services;**  
13 **through a provider network contract.**  
14 **Sec. 3. As used in this chapter, "dental carrier" means any of**  
15 **the following:**  
16 **(1) An insurer that issues a policy of accident and sickness**  
17 **insurance that covers dental services.**



- 1           (2) A health maintenance organization that provides, or
- 2           provides coverage for, dental services.
- 3           (3) An entity that:
- 4           (A) provides dental services; or
- 5           (B) arranges for dental services to be provided;
- 6           but is not itself a provider.
- 7           Sec. 4. (a) As used in this chapter, "dental service" means any
- 8           service provided by a dentist within the scope of the dentist's
- 9           licensure under IC 25-14.
- 10          (b) The term does not include a service delivered by a provider
- 11          that is billed as a medical expense.
- 12          Sec. 5. As used in this chapter, "health insurer" means:
- 13          (1) an insurer that issues policies of accident and sickness
- 14          insurance (as defined in IC 27-8-5-1); or
- 15          (2) a health maintenance organization (as defined in
- 16          IC 27-13-1-19).
- 17          Sec. 6. As used in this chapter, "person" means an individual, a
- 18          corporation, a limited liability company, a partnership, or any
- 19          other legal entity.
- 20          Sec. 7. (a) As used in this chapter, "provider" means:
- 21          (1) a dentist licensed under IC 25-14; or
- 22          (2) a dental office through which one (1) or more dentists
- 23          licensed under IC 25-14 provide dental services.
- 24          (b) The term does not include a physician organization or
- 25          physician hospital organization that leases or rents the network of
- 26          the physician organization or physician hospital organization
- 27          network to a third party.
- 28          Sec. 8. As used in this chapter, "provider network contract"
- 29          means a contract between a contracting entity and one (1) or more
- 30          providers:
- 31          (1) that establishes a network through which the providers:
- 32                (A) provide dental services to covered individuals; and
- 33                (B) are compensated for providing the dental services; and
- 34          (2) that specifies the rights and responsibilities of the
- 35          contracting entity and the providers concerning the network.
- 36          Sec. 9. (a) As used in this chapter, "third party" means a person
- 37          that enters into a contract with a contracting entity or another
- 38          third party to gain access to:
- 39          (1) a provider network contract;
- 40          (2) dental services provided pursuant to a provider network
- 41          contract; or
- 42          (3) contractual discounts provided pursuant to a provider



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network contract.

(b) The term does not include an employer or another group or entity for which the contracting entity provides administrative services.

Sec. 10. (a) This section applies if a contracting entity seeks to grant a third party access to:

- (1) a provider network contract;
- (2) dental services provided pursuant to a provider network contract; or
- (3) contractual discounts provided pursuant to a provider network contract.

(b) Except as provided in subsection (c) and section 16 of this chapter, in order for a contracting entity to grant a third party access as described in subsection (a), the following conditions must be satisfied:

- (1) When a provider network contract is entered into or renewed, or when there are material modifications to a provider network contract relevant to granting access to a third party as described in subsection (a):
  - (A) any provider that is a party to the provider network contract must be allowed to choose not to participate in the third party access as described in subsection (a); or
  - (B) if third party access is to be provided through the acquisition of the provider network by a health insurer, any provider that is a party to the provider network contract must be allowed to enter into a contract directly with the health insurer that acquired the provider network.
- (2) The provider network contract must specifically authorize the contracting entity to enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity.
- (3) If the contracting entity seeking to grant a third party access as described in subsection (a) is a dental carrier, a provider that is a party to the provider network contract must have chosen to participate in third party access at the time the provider network contract was entered into or renewed.
- (4) If the contracting entity seeking to grant a third party access as described in subsection (a) is a health insurer, the provider network contract must contain a third party access provision specifically granting third party access to the



- 1 provider network.
- 2 (5) If the contracting entity seeking to grant a third party
- 3 access as described in subsection (a) is a dental carrier, the
- 4 provider network contract must state that the provider has a
- 5 right to choose not to participate in the third party access.
- 6 (6) The third party being granted access as described in
- 7 subsection (a) must agree to comply with all of the terms of
- 8 the provider network contract.
- 9 (7) The contracting entity seeking to grant third party access
- 10 as described in subsection (a) must identify to each provider
- 11 that is a party to the provider network contract, in writing or
- 12 electronic form, all third parties in existence as of the date on
- 13 which the provider network contract is entered into or
- 14 renewed.
- 15 (8) The contracting entity granting third party access as
- 16 described in subsection (a) must identify, in a list on its
- 17 website that is updated at least once every ninety (90) days, all
- 18 third parties to which third party access has been granted.
- 19 (9) If third party access as described in subsection (a) is to be
- 20 granted through the sale or leasing of the network established
- 21 by the provider network contract, the contracting entity must
- 22 notify all providers that are parties to the provider network
- 23 contract of the leasing or sale of the network at least thirty
- 24 (30) days before the sale or lease of the network takes effect.
- 25 (10) The contracting entity seeking to grant third party access
- 26 to contractual discounts as described in subsection (a)(3) must
- 27 require each third party to identify the source of the discount
- 28 on all remittance advices or explanations of payment under
- 29 which a discount is taken. However, this subdivision does not
- 30 apply to electronic transactions mandated by the federal
- 31 Health Insurance Portability and Accountability Act of 1996
- 32 (Public Law 104-191).
- 33 (c) A contracting entity may grant a third party access as
- 34 described in subsection (a) even if the conditions set forth in
- 35 subsection (b)(1) are not satisfied if the contracting entity is not a
- 36 health insurer or a dental carrier.
- 37 (d) Except as provided in subsection (c) and section 16 of this
- 38 chapter, a provider that is a party to a provider network contract
- 39 is not required to provide dental services pursuant to third party
- 40 access granted as described in subsection (a) unless all of the
- 41 applicable conditions set forth in subsection (b) are satisfied.
- 42 Sec. 11. A contracting entity that is a party to a provider



1 network contract with a provider that chooses under section  
2 10(b)(1)(A) of this chapter not to participate in third party access  
3 shall not alter the provider's rights or status under the provider  
4 network contract because of the provider's choice not to  
5 participate in third party access.

6 **Sec. 12.** A contracting entity that is a party to a provider  
7 network contract shall notify a third party granted third party  
8 access as described in section 10(a) of this chapter of the  
9 termination of the provider network contract not more than thirty  
10 (30) days after the date of the termination.

11 **Sec. 13.** The right of a third party to contractual discounts  
12 described in section 10(a)(3) of this chapter ceases as of the  
13 termination date of the provider network contract.

14 **Sec. 14.** A contracting entity that is a party to a provider  
15 network contract shall make a copy of the provider network  
16 contract relied on in the adjudication of a claim available to a  
17 participating provider not more than thirty (30) days after the date  
18 of the participating provider's request.

19 **Sec. 15.** When entering into a provider network contract with  
20 providers, a contracting entity shall not reject a provider as a  
21 party to the provider network contract because the provider  
22 chooses or has chosen under section 10(b)(1)(A) of this chapter not  
23 to participate in third party access.

24 **Sec. 16. (a)** Section 10 of this chapter does not apply to access as  
25 described in section 10(a) of this chapter if granted by a  
26 contracting entity to:

- 27 (1) a dental carrier or other entity operating in accordance  
28 with the same brand licensee program as the contracting  
29 entity; or  
30 (2) an entity that is an affiliate of the contracting entity.

31 (b) For the purposes of this section, a contracting entity shall  
32 make a list of the contracting entity's affiliates available to  
33 providers on the contracting entity's website.

34 (c) Section 10 of this chapter does not apply to a provider  
35 network contract established for the purpose of providing dental  
36 services to beneficiaries of health programs sponsored by the state,  
37 including Medicaid (IC 12-15) and the children's health insurance  
38 program (IC 12-17.6).

39 **Sec. 17.** The provisions of this chapter cannot be waived by  
40 contract. A contract provision that:

- 41 (1) conflicts with this chapter; or  
42 (2) purports to waive any requirements of this chapter;



1 is null and void.

2 **Sec. 18. (a) If a person violates this chapter, the insurance**  
 3 **commissioner may enter an order requiring the person to cease**  
 4 **and desist from violating this chapter.**

5 **(b) If a person violates a cease and desist order issued under**  
 6 **subsection (a), the insurance commissioner, after notice and**  
 7 **hearing under IC 4-21.5, may:**

8 **(1) impose a civil penalty upon the person of not more than**  
 9 **ten thousand dollars (\$10,000) for each day of violation;**

10 **(2) suspend or revoke the person's certificate of authority, if**  
 11 **the person holds a certificate of authority under this title; or**

12 **(3) both impose a civil penalty upon the person under**  
 13 **subdivision (1) and suspend or revoke the person's certificate**  
 14 **of authority under subdivision (2).**

15 **SECTION 2. IC 27-8-11-14 IS ADDED TO THE INDIANA CODE**  
 16 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 17 **1, 2024]: Sec. 14. (a) As used in this section, "dental services"**  
 18 **means health care services provided by:**

19 **(1) a dentist licensed under IC 25-14;**

20 **(2) an individual using a dental residency permit issued under**  
 21 **IC 25-14-1-5;**

22 **(3) an individual who holds:**

23 **(A) a dental faculty license under IC 25-14-1-5.5; or**

24 **(B) an instructor's license under IC 25-14-1-27.5;**

25 **(4) a dental hygienist licensed under IC 25-13; or**

26 **(5) a dental assistant, as defined in IC 25-14-1-1.5(4).**

27 **(b) If an insured assigns the rights of the insured to benefits for**  
 28 **dental services to the provider of the dental services, the insurer**  
 29 **shall pay the benefits assigned by the insured to the provider of the**  
 30 **dental services.**

31 **(c) An insurer shall make a payment under this section:**

32 **(1) directly to the provider of the dental services; and**

33 **(2) according to the same criteria and payment schedule**  
 34 **under which the insurer would have been required to make**  
 35 **the payment to the insured if the insured had not assigned the**  
 36 **insured's rights to the benefits.**

37 **(d) An assignment of benefits under this section does not affect**  
 38 **or limit the insurer's obligation to pay the benefits.**

39 **(e) An insurer's payment of benefits in compliance with this**  
 40 **section discharges the insurer's obligation to pay the benefits to the**  
 41 **insured.**

