

Regular Session, 2010

SENATE BILL NO. 359

BY SENATOR BROOME

INSURANCE DEPARTMENT. Provide for network adequacy in the health insurance market. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 22:972 (A) and (B) and to enact R.S. 22:1016, relative to
3 network adequacy in health insurance; provide with respect to the filing of the
4 network of participating health care providers; provide for definitions; provide with
5 respect to the requirement of all health insurance issuers to have an adequate network
6 of providers; provide for penalties for violation of network adequacy rules; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:972(A) and (B) are hereby amended and reenacted and R.S.
10 22:1016 is hereby enacted to read as follows:

11 §972. Approval and disapproval of forms; filing of rates

12 A. No policy of health and accident insurance shall be delivered or issued
13 for delivery in this state, nor shall any endorsement, rider, or application which
14 becomes a part of any such policy be used in connection therewith until a copy of the
15 form and of the premium rates and of the classifications of risks pertaining thereto
16 **and the network of participating health care providers** have been filed with the
17 commissioner of insurance; nor shall any such policy, endorsement, rider, or

1 application be so used until the expiration of thirty days after the form **and network**
 2 **of participating health care providers** has been filed unless the commissioner of
 3 insurance shall sooner give his written approval thereto. The commissioner of
 4 insurance shall notify in writing the insurer which has filed any such form **or**
 5 **network of participating health care providers** if it does not comply with the
 6 provisions of this Subpart, specifying the reasons for his opinion; and it shall
 7 thereafter be unlawful for such insurer to issue such form **or use such network of**
 8 **participating providers** in this state. An aggrieved party affected by the
 9 commissioner's decision, act, or order may demand a hearing in accordance with
 10 Chapter 12 of this Title, R.S. 22:2191 et seq.

11 B. After twenty days' notice, the commissioner of insurance may withdraw
 12 his approval of any such form **or network of participating providers** on any of the
 13 grounds stated in this Section. It shall be unlawful for the insurer to issue such form
 14 **or network of participating providers** or use it in connection with any policy after
 15 the effective date of such withdrawal of approval. An aggrieved party affected by the
 16 commissioner's decision, act, or order may demand a hearing in accordance with
 17 Chapter 12 of this Title, R.S. 22:2191 et seq.

18 * * *

19 **§1016. Network adequacy and accessibility; definitions; requirements;**
 20 **penalties**

21 **A. The purpose and intent of this Section is to establish standards for the**
 22 **creation and maintenance of networks by health insurance issuers.**

23 **B. For the purposes of this Section:**

24 **(1) "Commissioner" means the insurance commissioner of this state.**

25 **(2) "Covered health care services" or "covered benefits" or "benefits"**
 26 **means services, including ancillary services, items, supplies, or drugs for the**
 27 **diagnosis, prevention, treatment, cure, or relief of a health condition, illness,**
 28 **injury, or disease that are either covered and payable under the terms of health**
 29 **insurance coverage or required by law to be covered.**

1 **(3) "Covered person" means a policyholder, subscriber, enrollee or**
2 **other individual participating in a health benefit plan.**

3 **(4) "Health benefit plan" means a policy, contract, certificate or**
4 **agreement entered into, offered or issued by a health insurance issuer to**
5 **provide, deliver, arrange for, pay for or reimburse any of the costs of health**
6 **care services.**

7 **(5) "Health care physician" means a physician licensed, certified, or**
8 **registered to perform specified health care services consistent with state law.**

9 **(6) "Health care provider" or "provider" means a health care**
10 **physician, licensed health care support staff or a hospital or the agent or**
11 **assignee of such physician, support staff or hospital.**

12 **(7) "Health insurance issuer" means an entity subject to the insurance**
13 **laws and regulations of this state, or subject to the jurisdiction of the**
14 **commissioner, that contracts or offers to contract, or enters into an agreement**
15 **to provide, deliver, arrange for, pay for or reimburse any of the costs of health**
16 **care services, including a sickness and accident insurance company, a health**
17 **maintenance organization, preferred provider organization, a nonprofit hospital**
18 **and health services corporation, or any other entity providing a plan of health**
19 **insurance, health benefits or health services.**

20 **(8) "Network of providers" or "network" means an entity other than**
21 **a health insurance issuer that, through contracts with health care providers,**
22 **provides or arranges for access by groups of enrollees or insureds to health care**
23 **services by health care providers who are not otherwise or individually**
24 **contracted directly with a health insurance issuer.**

25 **(9) "Participating health care provider" means a health care provider**
26 **who, under a contract with the health insurance issuer or with its contractor or**
27 **subcontractor, has agreed to provide health care services to covered persons**
28 **with an expectation of receiving payment, other than coinsurance, copayments**
29 **or deductibles, directly or indirectly from the health insurance issuer.**

1 **C.(1) A health insurance issuer shall effectively provide or arrange for**
2 **the provision of health care services through its network of participating health**
3 **care providers.**

4 **(2) Any network filed for approval by the commissioner shall contain:**

5 **(a) A copy of the contract or the form of any contract made, or to be**
6 **made, between the health insurance issuer and any provider of health care**
7 **services. The payment rendered or to be rendered to such provider shall be**
8 **deemed confidential and shall not be divulged by the commissioner, or his staff,**
9 **except that payment may be disclosed and become public record in any**
10 **legislative, administrative, or judicial proceeding or inquiry.**

11 **(b) A statement describing the health insurance issuer's method of**
12 **providing for health care services and describing the professional services to be**
13 **rendered. This statement shall include the health care delivery capabilities of**
14 **each health benefit plan including the number of primary health care**
15 **physicians, the number of nonprimary health care physicians identified by**
16 **specialty, the numbers and types of licensed health care support staff, and the**
17 **number of contracted hospitals. For purposes of this Section, primary health**
18 **care physicians shall include general and family practitioners, internists,**
19 **pediatricians, obstetricians, and gynecologists.**

20 **(c) A statement reasonably describing the geographic service area or**
21 **areas to be served by the health insurance issuer. This statement shall also**
22 **include a listing of principal and other offices maintained in this state by the**
23 **health insurance issuer.**

24 **(3) A health insurance issuer shall file a notice describing any material**
25 **modification of any network filed for approval in accordance with this Section.**
26 **The notice shall be filed with the commissioner prior to the modification. If the**
27 **commissioner does not disapprove the proposed modification within thirty days**
28 **of filing, or request a thirty day extension in writing, the modification shall be**
29 **deemed approved.**

1 **(4) The commissioner may suspend or revoke any certificate of authority**
2 **issued to a health insurance issuer under this Section if he finds that:**

3 **(a) A health insurance issuer's network impairs the ability of the health**
4 **insurance issuer to adequately provide or arrange for covered health care**
5 **services for its enrollees or insureds.**

6 **(b) The health insurance issuer is operating significantly in**
7 **contravention of the documents submitted or in a manner contrary to that**
8 **described in any information submitted under this Section, unless the health**
9 **insurance issuer filed with the commissioner those modifications as required by**
10 **this Section.**

11 **D. The commissioner of insurance shall promulgate rules and**
12 **regulations that he determines are necessary for implementation of this Section.**
13 **Such implementation shall be subject to the legislative oversight of the House**
14 **of Representatives and Senate committees on insurance in accordance with R.S.**
15 **49:968.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

Present law requires all policies of health and accident insurance to be filed with and approved by the commissioner of insurance prior to delivery or issuance in the state.

Proposed law retains present law and additionally requires that all health and accident insurers also file for approval with the commissioner of insurance its network of participating health care providers.

Present law prohibits the use of any form that has been disapproved by the commissioner and providers for a right to a hearing to appeal any decision, act or order by the commissioner.

Proposed law retains present law and extends these prohibitions and rights to any network of participating health providers that is denied for use by the commissioner.

Proposed law provides for the definitions of commissioner, covered health care services, covered benefits, benefits, covered person, health benefit plan, health care physician, health care provider, provider, health insurance issuer, network of providers, network, and participating health care provider.

Proposed law requires all health insurance issuer's to effectively provide or arrange for the provision of health care services through its network of participating health care services.

Proposed law requires the filing with the commissioner, a copy of the contract between the health insurance issuer and any provider of health care services. Provides that the payment rendered would be deemed confidential and not divulged to the commissioner or his staff except if disclosed during any legislative, administrative or judicial proceeding or inquiry.

Proposed law provides that the filing describe the method of providing health care services and shall include the health care delivery capabilities of each health benefit plan including a listing of all providers by specialty, number of support staff, and number of contracted hospitals.

Proposed law requires a statement providing the geographic service area or areas to be served by the health insurance issuer, including a list of principal and other offices maintained in the state.

Proposed law requires the filing of a notice of any material modification to the network for approval by the commissioner prior to the modification.

Proposed law allows the commissioner to suspend or revoke the certificate of authority of the health insurance issuer if the network impairs the ability of the health insurance issuer to adequately provide or arrange for covered health care services to its enrollees or insureds or if the health insurance issuer is operating significantly in contravention of the documents submitted to the commissioner.

Proposed law permits the commissioner to promulgate rules and regulations he deems necessary for implementation of proposed law. Provides that such implementation shall be subject to legislative oversight.

Effective August 15, 2010.

(Amends R.S. 22:972(A) and (B); adds R.S. 22:1016)