

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 926

Short Title: Preferred Provider Contracts.

(Public)

Sponsors: Representatives Brawley; Carpenter, Clary, Dockham, Eddins, Hurley, McAllister, McMahan, and Tallent.

Referred to: Insurance.

April 14, 1997

A BILL TO BE ENTITLED

AN ACT PERTAINING TO PREFERRED PROVIDER CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-50-55 reads as rewritten:

"§ 58-50-55. Preferred provider contracts.

(a) Notwithstanding any other provisions of law, except the second and third paragraphs of G.S. 58-50-30, corporations organized pursuant to Articles 1 through 64 of this Chapter are authorized to enter into preferred provider contracts in addition to all other contracts authorized by Articles 1 through 64 of this Chapter, or to enter other cost containment arrangements approved by the Commissioner, with persons, entities or organizations for the purpose of reducing the cost of providing health care services. Such preferred provider contracts may be entered into with licensed institutions and practitioners of all types without regard to specialty of services or limitation to a specific type of practice.

(b) The Department shall have authority to make rules applicable to persons offering preferred provider plans, policies, or contracts pursuant to this section. These rules shall be designed to provide for (i) accessibility of preferred provider services to individuals comprising the insured or contracted group, (ii) the adequacy of the number and locations of institutions and practitioners, (iii) the availability of services at

1 reasonable times, ~~and (iv) financial solvency.~~ solvency, and (v) product limitations. Rules
2 adopted for product limitations shall be similar in substance to rules governing HMO
3 point-of-service products.

4 (c) The Department shall require each preferred provider plan to provide summary
5 data regarding the financial reimbursement offered to providers of health care. All such
6 plans shall disclose annually the following information:

7 (1) The name by which the preferred provider plan policy or arrangement is
8 known, and its business address;

9 (2) The name, address and nature of any separate organization which
10 administers the plan, policy or arrangement on behalf of the preferred
11 provider; and

12 (3) The names and addresses of all providers of health care designated by
13 the preferred provider and the terms of the agreements entered into with
14 those providers.

15 ~~(d) A person enrolled in a preferred provider plan may obtain covered health care~~
16 ~~services from a provider not participating in the plan. The preferred provider plan may,~~
17 ~~however, limit the coverage for health care services obtained from a provider not~~
18 ~~participating in the plan, except that payments for services rendered by such non-~~
19 ~~participating providers may not be reduced by more than twenty percent (20%) of~~
20 ~~payments that would be made to participating providers under coverage for the same~~
21 ~~services. This percentage limitation shall not require any waiver of copayments or waiver~~
22 ~~of deductibles in determining payments for services rendered by non-participating~~
23 ~~providers. Preferred provider policies or contracts offered pursuant to this section shall~~
24 ~~provide for payment for services rendered by non-participating providers. Except as~~
25 ~~provided in this subsection, such payment may differ from that provided to participating~~
26 ~~providers in the discretion of the corporation. Non-participating providers may participate~~
27 ~~in other arrangements with the preferred provider, but will be subject to the provider's~~
28 ~~approved reimbursement mechanisms including, but not limited to, direct payment of~~
29 ~~health insurance benefits to the subscriber without right of assignment to the provider of~~
30 ~~health care services.~~

31 (e) Upon the initial offering of a preferred provider plan to the public, any
32 potential provider institutions and practitioners shall be allowed the opportunity to submit
33 a proposal for participation in accordance with the terms of the plan. The health care
34 providers shall have at least thirty (30) days to submit a proposal for participation.
35 Subsequent to the initial offering of a preferred provider plan, any provider seeking to
36 submit a proposal may be permitted to do so, and the plan shall consider all pending
37 applications for participation and give reasons for any rejections on at least an annual
38 basis. Any provider seeking to participate in the plan, whether upon the initial offering or
39 subsequently, may be permitted to do so in the discretion of the preferred provider plan.
40 The second and third paragraphs of G.S. 58-50-30 are specifically made applicable to
41 preferred provider plans.

42 (f) Any provision of a contract between a preferred provider plan and a health care
43 provider restricting the health care provider's right to enter into preferred provider

1 arrangements with other parties is prohibited. Any such restriction in a preferred provider
2 contract between a preferred provider plan and a provider of health care services is null
3 and void and shall not be enforceable. The existence of any such unenforceable
4 restriction shall not invalidate any other provision of the preferred provider contract.

5 (g) A list of the current participating health care providers in the geographic area
6 in which a substantial portion of health care services will be available shall be provided
7 to enrollees and contracting parties.

8 (h) Publications or advertisements of preferred providers plans or arrangements
9 shall not refer to the quality or efficiency of the services of non-participating providers."

10 Section 2. G.S. 58-65-140 reads as rewritten:

11 **"§ 58-65-140. Preferred provider contracts.**

12 (a) Notwithstanding any other provisions of law, except the second and third
13 paragraphs of G.S. 58-50-30, corporations organized for the purposes of this Article and
14 Article 66 of this Chapter are authorized to enter into preferred provider contracts in
15 addition to all other contracts authorized by this Article and Article 66 of this Chapter, or
16 to enter other cost containment arrangements approved by the Commissioner of
17 Insurance, with persons, entities or organizations for the purpose of reducing the costs of
18 providing health care services. Such preferred provider contracts may be entered into
19 with licensed institutions and practitioners of all types without regard to speciality of
20 services or limitation to a specific type of practice.

21 (b) The Department of Insurance shall have authority to make rules applicable to
22 corporations offering preferred provider plans, policies, or contracts pursuant to this
23 section. These rules shall be designed to provide for (i) accessibility of preferred provider
24 services to individuals comprising the insured or contracted group, (ii) the adequacy of
25 the number and locations of institutions and practitioners, (iii) the availability of services
26 at reasonable times, ~~and~~ (iv) ~~financial solvency~~ solvency, and (v) product limitations.
27 Rules adopted for product limitations shall be similar in substance to rules governing
28 HMO point-of-service products.

29 (c) The Department of Insurance shall require each corporation developing
30 preferred provider plans, policies or contracts under this section to provide summary data
31 regarding the financial reimbursement offered to providers. Any corporation which
32 proposes to offer preferred provider plans, contracts or policies authorized by this section
33 shall furnish annually to the Department of Insurance the following information:

34 (1) The name by which the preferred provider plan, policy or contract will
35 be known, and its business address;

36 (2) The name, address and nature of any separate organization which
37 administers the plan, policy or contract on behalf of the insured; and

38 (3) The names and addresses of all providers designated by the corporation
39 and the terms of the agreements with these providers.

40 ~~(d) A person enrolled in a preferred provider plan may obtain covered health care~~
41 ~~services from a provider not participating in the plan. The preferred provider plan may,~~
42 ~~however, limit the coverage for health care services obtained from a provider not~~
43 ~~participating in the plan, except that payments for services rendered by such non-~~

~~1 participating providers may not be reduced by more than twenty percent (20%) of
2 payments that would be made to participating providers under coverage for the same
3 services. This percentage limitation shall not require any waiver of copayments or
4 waiver of deductibles in determining payments for services rendered by nonparticipating
5 providers. Preferred provider policies or contracts offered pursuant to this section shall
6 provide for payment for services rendered by nonparticipating providers. Except as
7 provided in this subsection, such payment may differ from that provided to participating
8 providers in the discretion of the corporation. Nonparticipating providers may participate
9 in other arrangements with the corporation, but will be subject to reimbursement
10 mechanisms approved by the corporation including, but not limited to, direct payment of
11 health insurance benefits to the subscriber without right of assignment to the provider of
12 health care services.~~

13 (e) Upon the initial offering of a preferred provider plan to the public, any
14 potential provider institutions and practitioners shall be allowed the opportunity to submit
15 a proposal for participation in accordance with the terms of the plan. The health care
16 providers shall have at least thirty (30) days to submit a proposal for participation.
17 Subsequent to the initial offering of a preferred provider plan, any provider seeking to
18 submit a proposal may be permitted to do so, and the plan shall consider all pending
19 applications for participation and give reasons for any rejections on at least an annual
20 basis. The second and third paragraphs of G.S. 58-50-30 are specifically made applicable
21 to preferred provider plans.

22 (f) Any provision of a contract between a corporation and a provider restricting
23 the provider's right to enter into preferred provider arrangements with other parties is
24 prohibited. Any such restriction in a preferred provider contract between a corporation
25 and a provider of health care services is null and void and shall not be enforceable;
26 however, the existence of any such unenforceable restriction shall not invalidate any
27 other provision of the preferred provider contract.

28 (g) Any corporation marketing a preferred provider plan to subscribers or
29 contracting parties must provide to the same a written list of the then current participating
30 institutions and practitioners in the geographic area in which it is anticipated that the
31 substantial portion of health care services will be provided prior to entering into a
32 preferred provider plan contract with the actual or potential subscriber or contracting
33 party.

34 (h) Publications or advertisements of preferred providers shall not refer to the
35 quality or efficiency of the health care services of nonparticipating providers."

36 Section 3. This act is effective when it becomes law.