

# ASSEMBLY, No. 4500

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 19, 2007

**Sponsored by:**

**Assemblyman MICHAEL J. PANTER**

**District 12 (Mercer and Monmouth)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**SYNOPSIS**

Regulates the disclosure and use of privately negotiated in-network fees and reimbursement rates for certain health care providers.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/4/2008)

1 AN ACT concerning certain network-based health benefits plans,  
2 and supplementing chapter 30 of Title 17B of the New Jersey  
3 Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7

8 1. As used in this act:

9 “Benefits payer” means a carrier, organized delivery system,  
10 employer, or any other person who undertakes to provide and  
11 assumes financial risk for the payment of health benefits, and is  
12 obligated to pay claims for health benefits on behalf of a covered  
13 person to a health care provider or other claimant.

14 “Carrier” means an insurance company, health service  
15 corporation, hospital service corporation, medical service  
16 corporation, health maintenance organization, or prepaid  
17 prescription service organization authorized to issue any health  
18 benefits plan or prescription drug plan in this State.

19 “Covered person” means a person on whose behalf a benefits  
20 payer is obligated to pay benefits pursuant to a health benefits plan  
21 or prescription drug plan.

22 “Covered service” means a service provided by a health care  
23 provider or organized delivery system to a covered person under a  
24 health benefits plan or prescription drug plan for which a benefits  
25 payer is obligated to pay benefits.

26 “Health benefits plan” means any hospital or medical expense  
27 insurance policy, health service corporation contract, hospital  
28 service corporation contract, medical service corporation contract,  
29 health maintenance organization contract, or other contract, policy,  
30 or plan that pays or provides hospital or medical expense benefits  
31 for covered services, and is delivered or issued for delivery in this  
32 State by or through a benefits payer. Health benefits plan includes,  
33 but is not limited to, the following contracts, policies, and plans:  
34 accident only or disability income insurance, or any combination  
35 thereof; liability insurance, including general liability insurance and  
36 motor vehicle liability insurance; workers’ compensation or similar  
37 insurance; and motor vehicle medical payment insurance or  
38 personal injury protection coverage provided by a motor vehicle or  
39 automobile insurance policy issued pursuant to Subtitle 3 of Title  
40 17 of the Revised Statutes (R.S.17:17-1 et seq.) or P.L.1972, c.70  
41 (C.39:6A-1 et seq.).

42 “Health care provider” means an individual or entity, which  
43 while acting within the scope of the individual’s or entity’s  
44 licensure or certification, provides a covered service defined by a  
45 health benefits plan or prescription drug plan. Health care provider  
46 includes, but is not limited to, a physician, pharmacist, or any other  
47 health care professional licensed or certified pursuant to Title 45 of

1 the Revised Statutes, or a hospital or any other health care facility  
2 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

3 “Network” means one or more health care providers which enter  
4 into a selective contracting arrangement with a benefits payer.

5 “Organized delivery system” means “organized delivery system”  
6 as defined in section 1 of P.L.1999, c.409 (C.17:48H-1).

7 “Prescription drug plan” means a prepaid prescription service  
8 organization contract provided by or through a person, carrier, or  
9 other entity authorized to provide a prepaid prescription service  
10 pursuant to P.L.1997, c.380 (C.17:48F-1 et seq.), or any other  
11 contract, policy, or plan which provides benefits for pharmacy  
12 services, prescription drugs, or for participation in a prescription  
13 drug plan that is delivered or issued for delivery in this State by or  
14 through a benefits payer.

15 “Selective contracting arrangement” means an arrangement in  
16 which a benefits payer participates in selective contracting with one  
17 or more participating health care providers or organized delivery  
18 systems, and which arrangement contains reasonable benefit  
19 differentials, including, but not limited to, predetermined fee or  
20 reimbursement rates for covered services applicable to participating  
21 and nonparticipating health care providers and organized delivery  
22 systems.

23 “Third party administrator” means “third party administrator” as  
24 defined by section 1 of P.L.2001, c.267 (C.17B:27B-1).

25 “Third party billing service” means “third party billing service”  
26 as defined by section 1 of P.L.2001, c.267 (C.17B:27B-1).

27

28 2. A person or entity, other than a benefits payer, carrier,  
29 organized delivery system, health care provider, or third party  
30 administrator or billing service, as set forth in section 3 of this act,  
31 shall not sell, lease, transfer, assign, or otherwise disclose any  
32 predetermined fee or reimbursement rate for covered services  
33 agreed to in any selective contracting arrangement.

34

35 3. a. Except as provided by subsections b. and c. of this  
36 section: (1) a benefits payer which enters into a selective  
37 contracting arrangement; (2) a third party administrator for that  
38 benefits payer; (3) a carrier or organized delivery system  
39 participating in the selective contracting arrangement; (4) a health  
40 care provider participating in the selective contracting arrangement;  
41 or (5) a third party billing service for that health care provider, shall  
42 not sell, lease, transfer, assign, or otherwise disclose any  
43 predetermined fee or reimbursement rate for covered services  
44 agreed to in the selective contracting arrangement.

45 b. Notwithstanding the provisions of subsection a. of this  
46 section, the benefits payer, or a carrier or organized delivery system  
47 participating in the selective contracting arrangement, may disclose  
48 any predetermined fee or reimbursement rate, for the purpose of

1 administering the payment of a claim for a covered service, to: (1) a  
2 third party administrator for that benefits payer; (2) a carrier or  
3 organized delivery system participating in the selective contracting  
4 arrangement; (3) a health care provider participating in the selective  
5 contracting arrangement; (4) a third party billing service for that  
6 health care provider; or (5) a covered person.

7 c. Notwithstanding the provisions of subsection a. of this  
8 section, the benefits payer, or a carrier or organized delivery system  
9 participating in the selective contracting arrangement, may disclose  
10 any predetermined fee or reimbursement rate, for the purpose of  
11 providing an incentive to utilize a network or organized delivery  
12 system participating in the selective contracting arrangement, to: (1)  
13 the benefits payer; (2) a carrier or organized delivery system  
14 participating in the selective contracting arrangement; or (3) a  
15 covered person. For the purposes of this subsection, "incentive"  
16 means reduced copayments, reduced deductibles, or premium  
17 discounts attributable to the use of a health care provider in a  
18 network or organized delivery system for any covered service, or a  
19 financial penalty attributable to the use of any health care provider  
20 not participating in that network or organized delivery system.

21  
22 4. A benefits payer, carrier, organized delivery system, or health  
23 care provider that does not participate in a selective contracting  
24 arrangement, or a third party administrator or billing service acting  
25 on behalf of a benefits payer or health care provider that does not  
26 participate in the selective contracting arrangement, shall not  
27 calculate or pay any fee or reimbursement rate for covered services  
28 by using any negotiated, predetermined fee or reimbursement rate  
29 agreed to in the selective contracting arrangement.

30  
31 5. Any benefits payer, carrier, organized delivery system, health  
32 care provider, third party administrator or billing service, or other  
33 person or entity which violates any provision of this act shall be  
34 ordered to pay restitution to any person aggrieved by the violation,  
35 and shall be liable to a civil penalty in an amount not less than  
36 \$500, or more than \$10,000, for each violation. A penalty shall be  
37 collected and enforced by summary proceedings pursuant to the  
38 provisions of the "Penalty Enforcement Law of 1999," P.L.1999,  
39 c.274 (C.2A:58-10 et seq.).

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41 6. This act shall take effect on the first day of the seventh month  
42 next following enactment, and shall apply to all health benefits  
43 plans or prescription drug plans that are delivered, issued, executed  
44 or renewed, or approved for issuance or renewal in this State, on or  
45 after the effective date; but the Commissioner of Banking and  
46 Insurance may take any anticipatory administrative action in  
47 advance thereof as shall be necessary for the implementation of this  
48 act.

## STATEMENT

This bill regulates the disclosure and use of privately negotiated in-network fees and reimbursement rates agreed to between health care providers or organized delivery systems and carriers, employers, or other benefits payers, for use by these parties, and their third party administrators and billing services, in administering the payment of claims for services provided pursuant to a health benefits plan or prescription drug plan.

With respect to a selective contracting arrangement, the bill provides that: (1) a benefits payer which enters into such an arrangement; (2) a third party administrator for that benefits payer; (3) a carrier or organized delivery system participating in the selective contracting arrangement; (4) a health care provider participating in the selective contracting arrangement; or (5) a third party billing service for that health care provider, shall not sell, lease, transfer, assign, or otherwise disclose any predetermined fee or reimbursement rate for covered services agreed to in the selective contracting arrangement.

Notwithstanding this blanket prohibition, the bill establishes several disclosure exceptions for the participating parties to the selective contracting arrangement. First, the benefits payer, or a participating carrier or organized delivery system, may disclose any predetermined fee or reimbursement rate, for the purpose of administering the payment of a claim, to: (1) a third party administrator for that benefits payer; (2) a participating carrier or organized delivery system; (3) a participating health care provider; (4) a third party billing service for that health care provider; or (5) a covered person. Additionally, the benefits payer, carrier or organized delivery system may disclose any predetermined fee or reimbursement rate, in order to provide an incentive to utilize a contracted provider network or organized delivery system, to: (1) the benefits payer; (2) a participating carrier or organized delivery system; or (3) a covered person.

Any person or entity that is not a party to the selective contracting arrangement as described above shall not sell, lease, transfer, assign, or otherwise disclose any predetermined fee or reimbursement rate for covered services agreed to in that selective contracting arrangement.

Also, the bill provides that a benefits payer, carrier, organized delivery system, or health care provider that does not participate in the selective contracting arrangement, or a third party administrator or billing service acting on behalf of a benefits payer or health care provider that does not participate in the selective contracting arrangement, shall not calculate or pay any fee or reimbursement rate for covered services by using any negotiated, predetermined fee or reimbursement rate agreed to in that selective contracting arrangement.

1       Any benefits payer, carrier, organized delivery system, health  
2       care provider, third party administrator or billing service, or other  
3       person or entity which violates any provision of the bill shall be  
4       ordered to pay restitution to any person aggrieved by the violation,  
5       and shall be liable to a civil penalty in an amount not less than  
6       \$500, or more than \$10,000, for each violation. Any penalty shall  
7       be collected and enforced by summary proceedings pursuant to the  
8       provisions of the “Penalty Enforcement Law of 1999,” P.L.1999,  
9       c.274 (C.2A:58-10 et seq.).