

SENATE BILL No. 314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8; IC 27-8-11-3.2; IC 27-13-15-4; IC 27-13-37-4; IC 27-13-37-4.5.

Synopsis: Point-of-service products. Requires a health maintenance organization, an accident and sickness insurer, and a state employee health benefit plan that uses a provider network to include a point-of-service product. Requires a health maintenance organization and a state employee health benefit plan that uses a provider network to establish terms and conditions that must be met by providers wishing to enter into participating provider contracts. Prohibits unreasonable discrimination among providers in terms and conditions of participating provider contracts. Requires a health maintenance organization and a state employee health benefit plan that uses a provider network to provide a written statement of the terms and (Continued next page)

Effective: July 1, 1999.

Miller

January 7, 1999, read first time and referred to Committee on Health and Provider Services.

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Digest Continued

conditions of its participating provider contract to providers wishing to become participating providers. Provides that a provider agreeing to meet the terms and conditions of a participating provider contract must be allowed to enter into a participating provider contract. Requires a health maintenance organization and a state employee health benefit plan that uses a provider network to provide a written statement of the terms and conditions not satisfied by a provider who is denied the right to enter into a participating provider contract. Specifies that a state employee health benefit plan that uses a provider network may not prohibit a participating provider from disclosing financial incentives and all treatment options available, including those not covered by the plan, through its participating provider contract. Provides that no cause of action shall arise for required disclosure of information or subsequent unauthorized use of the information.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 314



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 5-10-8-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 1999]: Sec. 1. The following definitions apply
- 3 in this chapter:
- 4 (1) "Employee" means:
- 5 (A) an elected or appointed officer or official, or a full-time
- 6 employee;
- 7 (B) if the individual is employed by a school corporation, a
- 8 full-time or part-time employee;
- 9 (C) for a local unit public employer, a full-time or part-time
- 10 employee or a person who provides personal services to the
- 11 unit under contract during the contract period; or
- 12 (D) a senior judge appointed under IC 33-2-1-8;
- 13 whose services have continued without interruption at least thirty
- 14 (30) days.
- 15 (2) "Group insurance" means any of the kinds of insurance



1 fulfilling the definitions and requirements of group insurance
2 contained in IC 27-1.

3 (3) "Insurance" means insurance upon or in relation to human life
4 in all its forms, including life insurance, health insurance,
5 disability insurance, accident insurance, hospitalization insurance,
6 surgery insurance, medical insurance, and supplemental medical
7 insurance.

8 (4) "Local unit" includes a city, town, county, township, or school
9 corporation.

10 (5) **"Participating provider contract" means an express or**
11 **implied contract through which a provider (as defined in**
12 **IC 27-8-11-1) agrees to provide health care services (as**
13 **defined in IC 27-8-11-1) as part of a provider network.**

14 (6) **"Point-of-service product" means a product providing**
15 **coverage for health care services provided:**

16 (A) **within a provider network; or**

17 (B) **outside of a provider network.**

18 (7) **"Provider network" means a group of providers (as**
19 **defined in IC 27-8-11-1) employed or under contract to**
20 **provide health care services (as defined in IC 27-8-11-1) to**
21 **individuals:**

22 (A) **covered under a self-insurance program established**
23 **under section 7(b) of this chapter; or**

24 (B) **entitled to health services under a prepaid health care**
25 **delivery plan under section 7(c) of this chapter.**

26 (8) "Public employer" means the state or a local unit, including
27 any board, commission, department, division, authority,
28 institution, establishment, facility, or governmental unit under the
29 supervision of either, having a payroll in relation to persons it
30 immediately employs, even if it is not a separate taxing unit.

31 ~~(6)~~ (9) "Public employer" does not include a state educational
32 institution (as defined under IC 20-12-0.5-1).

33 ~~(7)~~ (10) "Retired employee" means:

34 (A) in the case of a public employer that participates in the
35 public employees' retirement fund, a former employee who
36 qualifies for a benefit under IC 5-10.3-8;

37 (B) in the case of a public employer that participates in the
38 teachers' retirement fund under IC 21-6.1, a former employee
39 who qualifies for a benefit under IC 21-6.1-5; and

40 (C) in the case of any other public employer, a former
41 employee who meets the requirements established by the
42 public employer for participation in a group insurance plan for

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1 retired employees.
 2 ~~(8)~~ **(11)** "Retirement date" means the date that the employee has
 3 chosen to receive retirement benefits from the employees'
 4 retirement fund.

5 SECTION 2. IC 5-10-8-7 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The state, excluding state
 7 educational institutions (as defined by IC 20-12-0.5-1), may not
 8 purchase or maintain a policy of group insurance, except life insurance
 9 or long term care insurance under a long term care insurance policy (as
 10 defined in IC 27-8-12-5), for its employees.

11 (b) With the consent of the governor, the state personnel department
 12 may establish self-insurance programs to provide group insurance other
 13 than life or long term care insurance for state employees and retired
 14 state employees. The state personnel department may contract with a
 15 private agency, business firm, limited liability company, or corporation
 16 for administrative services. A commission may not be paid for the
 17 placement of the contract. The department may require, as part of a
 18 contract for administrative services, that the provider of the
 19 administrative services offer to an employee terminating state
 20 employment the option to purchase, without evidence of insurability,
 21 an individual policy of insurance. **A self-insurance program**
 22 **established under this subsection that uses a provider network**
 23 **must include a point-of-service product.**

24 (c) Notwithstanding subsection (a), with the consent of the
 25 governor, the state personnel department may contract for health
 26 services for state employees through one (1) or more prepaid health
 27 care delivery plans. **A contract entered into under this subsection**
 28 **for health services through a prepaid health care delivery plan that**
 29 **uses a provider network must include a point-of-service product.**

30 (d) The state personnel department shall adopt rules under IC 4-22-2
 31 to establish long term and short term disability plans for state
 32 employees (except employees who hold elected offices (as defined by
 33 IC 3-5-2-17)). The plans adopted under this subsection may include
 34 any provisions the department considers necessary and proper and
 35 must:

- 36 (1) require participation in the plan by employees with six (6)
 37 months of continuous, full-time service;
 38 (2) require an employee to make a contribution to the plan in the
 39 form of a payroll deduction;
 40 (3) require that an employee's benefits under the short term
 41 disability plan be subject to a thirty (30) day elimination period
 42 and that benefits under the long term plan be subject to a six (6)



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- 1 month elimination period;
- 2 (4) prohibit the termination of an employee who is eligible for
- 3 benefits under the plan;
- 4 (5) provide, after a seven (7) day elimination period, eighty
- 5 percent (80%) of base biweekly wages for an employee disabled
- 6 by injuries resulting from tortious acts, as distinguished from
- 7 passive negligence, that occur within the employee's scope of
- 8 state employment;
- 9 (6) provide that an employee's benefits under the plan may be
- 10 reduced, dollar for dollar, if the employee derives income from:
- 11 (A) Social Security;
- 12 (B) the public employees' retirement fund;
- 13 (C) the Indiana state teachers' retirement fund;
- 14 (D) pension disability;
- 15 (E) worker's compensation;
- 16 (F) benefits provided from another employer's group plan; or
- 17 (G) remuneration for employment entered into after the
- 18 disability was incurred.
- 19 (The department of state revenue and the department of workforce
- 20 development shall cooperate with the state personnel department
- 21 to confirm that an employee has disclosed complete and accurate
- 22 information necessary to administer subdivision (6).)
- 23 (7) provide that an employee will not receive benefits under the
- 24 plan for a disability resulting from causes specified in the rules;
- 25 and
- 26 (8) provide that, if an employee refuses to:
- 27 (A) accept work assignments appropriate to the employee's
- 28 medical condition;
- 29 (B) submit information necessary for claim administration; or
- 30 (C) submit to examinations by designated physicians;
- 31 the employee forfeits benefits under the plan.
- 32 (e) This section does not affect insurance for retirees under
- 33 IC 5-10.3 or IC 21-6.1.
- 34 (f) The state may pay part of the cost of self-insurance or prepaid
- 35 health care delivery plans for its employees.
- 36 (g) A state agency may not provide any insurance benefits to its
- 37 employees that are not generally available to other state employees,
- 38 unless specifically authorized by law.
- 39 (h) The state may pay a part of the cost of group medical and life
- 40 coverage for its employees.
- 41 SECTION 3. IC 5-10-8-7.1 IS ADDED TO THE INDIANA CODE
- 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 1999]: Sec. 7.1. (a) As used in this section, "person" includes the
2 following:

- 3 (1) An individual.
4 (2) A partnership.
5 (3) An association.
6 (4) A trust.
7 (5) A limited liability company.
8 (6) A corporation.

9 (b) As used in this section, "plan" means a self-insurance
10 program established under section (7)(b) of this chapter or a
11 contract for health services through a prepaid health care delivery
12 plan entered into under section (7)(c) of this chapter.

13 (c) A plan that uses a provider network shall establish terms and
14 conditions that must be met by providers wishing to enter into
15 participating provider contracts with the plan. The terms and
16 conditions may not discriminate unreasonably against or among
17 providers. For purposes of this subsection, neither differences in
18 prices among hospitals or other institutional providers produced
19 by a process of individual negotiation nor price differences among
20 other providers in different geographical areas or different
21 specialties constitute unreasonable discrimination. Upon request
22 by a provider, a plan shall make available to the provider a written
23 statement of the terms and conditions that must be met by a
24 provider wishing to enter into a participating provider contract.

25 (d) A provider that is willing to meet the terms and conditions
26 of the plan's participating provider contract may not be denied the
27 right to enter into a contract to provide health care services within
28 the scope of the provider's license. Upon request of a licensed
29 provider, a plan that has a provider network shall provide the
30 provider with a copy of all application materials required to
31 become a participating provider with the plan. If a plan denies a
32 provider the right to enter into a participating provider contract
33 with the plan on the grounds that the provider does not satisfy the
34 terms and conditions established under subsection (c), the plan
35 shall provide the provider with written notice that:

- 36 (1) explains the basis of the plan's denial; and
37 (2) states the specific terms and conditions that the provider,
38 in the opinion of the plan, does not satisfy.

39 (e) A participating provider contract may not prohibit a
40 provider from disclosing:

- 41 (1) financial incentives for the provider; or
42 (2) all treatment options available to an individual covered



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1 under the plan, including those not covered by the plan.

2 (f) A plan may not penalize a provider financially or in any
3 other manner for making a disclosure permitted under subsection
4 (e).

5 (g) No cause of action shall arise against any person for:

6 (1) disclosing information as required by this section; or

7 (2) the subsequent use of the information by an unauthorized
8 individual.

9 No cause of action shall arise against any person for furnishing
10 personal or privileged information to a plan. However, this
11 subsection provides no immunity for disclosing or furnishing false
12 information with malice or willful intent to injure any person.

13 (h) Nothing in this section abrogates any privileges and
14 immunities established in IC 34-30-15 (or IC 34-4-12.6 before its
15 repeal).

16 SECTION 4. IC 27-8-11-3.2 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 1999]: Sec. 3.2. (a) As used in this section, "point-of-service
19 product" means a product providing coverage for health care
20 services through providers regardless of whether the providers
21 have entered into an agreement with the insurer under section
22 3.1(a) of this chapter.

23 (b) An insurer must provide a point-of-service product to every
24 purchaser of an accident and sickness insurance policy that
25 provides coverage for health care services through a preferred
26 provider plan.

27 (c) The commissioner may not approve a policy form under
28 IC 27-8-5-1 that does not include a point-of-service product as
29 required under subsection (b).

30 SECTION 5. IC 27-13-15-4 IS ADDED TO THE INDIANA CODE
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 1999]: Sec. 4. (a) A health maintenance organization shall
33 establish terms and conditions that must be met by a provider
34 wishing to enter into a participating provider contract with the
35 health maintenance organization. The terms and conditions may
36 not discriminate unreasonably against or among providers. For
37 purposes of this subsection, neither differences in prices among
38 hospitals or other institutional providers produced by a process of
39 individual negotiation nor price differences among other providers
40 in different geographical areas or different specialties constitute
41 unreasonable discrimination. Upon request by a licensed provider,
42 a health maintenance organization shall make available to the



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1 provider a written statement of the terms and conditions that must
 2 be met by a provider wishing to enter into a participating provider
 3 contract.

4 (b) A provider that is willing to meet the terms and conditions
 5 of the health maintenance organization's participating provider
 6 contract may not be denied the right to enter into a participating
 7 provider contract to provide health care services within the scope
 8 of the provider's license. Upon request of a licensed provider, a
 9 health maintenance organization shall provide the provider with
 10 a copy of all application materials required to become a
 11 participating provider with the health maintenance organization.
 12 If a health maintenance organization denies a provider the right to
 13 enter into a participating provider contract with the health
 14 maintenance organization on the grounds that the provider does
 15 not satisfy the terms and conditions established under subsection
 16 (a), the health maintenance organization shall provide the provider
 17 with written notice that:

18 (1) explains the basis of the health maintenance organization's
 19 denial; and

20 (2) states the specific terms and conditions that the provider,
 21 in the opinion of the health maintenance organization, does
 22 not satisfy.

23 (c) No cause of action shall arise against any person for:

24 (1) disclosing information as required by this section; or

25 (2) the subsequent use of the information by an unauthorized
 26 individual.

27 No cause of action shall arise against any person for furnishing
 28 personal or privileged information to a health maintenance
 29 organization. However, this subsection provides no immunity for
 30 disclosing or furnishing false information with malice or willful
 31 intent to injure any person.

32 (d) Nothing in this section abrogates any privileges and
 33 immunities established in IC 34-30-15 (or IC 34-4-12.6 before its
 34 repeal).

35 SECTION 6. IC 27-13-37-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Beginning July
 37 1, 1999, each health maintenance organization shall offer to each
 38 purchaser of a group contract or individual contract a point-of-service
 39 product to the extent permitted by IC 27-13-13-8.

40 (b) This section expires June 30, 2000.

41 SECTION 7. IC 27-13-37-4.5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. (a) Beginning July 1, 2000,**
2 **each health maintenance organization shall, after complying with**
3 **the requirements of IC 27-13-13-8, provide a point-of-service**
4 **product to each purchaser of a group contract or individual**
5 **contract.**

6 (b) **The commissioner may not approve a contract form under**
7 **IC 27-13-7-9 that does not include a point-of-service product as**
8 **required under subsection (a).**

9 SECTION 8. [EFFECTIVE JULY 1, 1999] (a) **IC 5-10-8-1, as**
10 **amended by this act, applies to self-insurance programs and**
11 **contracts for health services through prepaid health care delivery**
12 **plans established, entered into, delivered, amended, or renewed**
13 **after June 30, 1999.**

14 (b) **IC 5-10-8-7.1, as added by this act, applies to plan**
15 **participating provider contracts entered into, renewed, or modified**
16 **after June 30, 1999.**

17 (c) **IC 27-8-11-3.2, as added by this act, applies to an accident**
18 **and sickness insurance policy that provides coverage for health**
19 **care services through a preferred provider plan that is issued,**
20 **renewed, amended, or delivered after June 30, 1999.**

21 (d) **IC 27-13-15-4, as added by this act, applies to health**
22 **maintenance organization participating provider contracts entered**
23 **into, renewed, or modified after June 30, 1999.**

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