> "The Mandated Benefits Task Force shall review the costs incurred by other states that require direct payment to an out-of-network provider with an assignment of benefit, evaluate the cost and impact to the state if the General Assembly requires insurance companies and health maintenance organizations to make a direct payment to an out-of-network health care provider who has an assignment of benefit, and report back to the health finance commission and the legislative council (in electronic format under IC 5-14-6) not later than September 1, 2008, with the task force's findings and any recommendations." Senate Resolution 36- 2008.

The first meeting of the Mandated Benefits Task Force (MBTF) to address this Resolution, was held at the Indiana Department of Insurance (IDOI) on April 29th. The charge of Senate Resolution 36 was given regarding study of assignment of benefits.

General testimony was received from representatives of the Indiana Dental Association (IDA), the Indiana State Medical Association (ISMA), the Indiana State Chiropractic Association (ISCA), and America's Health Insurance Plans (AHIP). Task Force member Holly King also provided a state law summary of assignment of benefit laws prepared by AHIP.

The Task Force directed those attending the meeting to provide any relevant studies regarding assignment of benefit laws at the next meeting.

The second meeting of the Task Force on this topic was held on June 17th at the IDOI. Representatives of various organizations provided the following studies for review.

The Potential Impact of State Mandatory Assignment Legislation on Consumers, Sept. 2003
Blue Cross and Blue Shield Association

Assignment of Benefits Legislation for Healthcare Providers, January 2005
Virginians for Fairness in Healthcare

Individual Health Insurance 2006-2007: A Comprehensive Survey or Premiums, Availability, and Benefits, December 2007
AHIP Center for Policy and Research

Assignment of Benefit Summary of State Laws, November 2007
AHIP

Chart Illustrating Any Willing Provider Laws, December 2006
Health Policy Tracking Services

Letter from Delta Dental June 12, 2008
Delta Dental

With the exception of the Delta Dental letter of June 12, 2008, (which is limited to one carrier's experience requiring participation in a network to receive direct claim payment), we found no empirical data which outlines the costs incurred by states that require payment to an out-of-network provider.

While we find the Delta Dental data compelling, we believe it is limited in application to a unique component of our health care delivery system and may not translate to the broader health care delivery market.

At our final meeting on this Resolution, held at the insurance department on July 22, 2008, given the lack of empirical data, we focused on reviewing assignment of benefit laws in states that held a similar regulatory structure to Indiana. Carol Cutter, Chief Deputy Commissioner of Health, provided the following chart:

COMPARISON OF STATES WITH ASSIGNMENT OF BENEFIT LAWS

BROAD AOB LAW*	YEAR ENACTED	AWP LAW**
ALABAMA	2001	PHARMACY/PHARMACIST ONLY
ALASKA	1996/2001	NO
COLORADO	2005	NO
GEORGIA	1992	YES
ILLINOIS	1999	PHARMACY ONLY
MAINE	1999	NO
MISSOURI	1983/90/92/98/2006	NO
NEVADA	1983/89/2007	NO
TENNESSEE	1997/2000	NO
TEXAS	2005	PHARMACY/PHARMACIST ONLY

LIMITED AOB	YEAR ENACTED	LIMITED/ NO AWP
CONNECTICUT	**2000**	**AWP-NO** **AOB-DENTAL/ORAL SURGEONS**
IDAHO	**1992**	**AWP-YES** **AOB FOR DENTAL ONLY**
LOUISIANA	**1989**	**AWP-PHARMACY/CIST ONLY** **AOB-HOSPITALS ONLY**
MASSACHUSETTS	**1988**	**AWP-PHARMACY ONLY** **AOB-EMERGENCY CARE ONLY**
OHIO	**1998**	**AWP-NO** **AOB-HOSPITAL EMERGENCY ONLY**
RHODE ISLAND	**2004**	**AWP-NO** **AOB-DENTAL ONLY**
SOUTH DAKOTA	**1989**	**AWP-PHARMACY/CIST ONLY** **AOB-HOSPITALS ONLY**
WYOMING	**1991**	**AWP-YES** **AOB-STATE INSTITUTIONS ONLY**
VIRGINIA	**1986/99/2000/06**	**AWP-YES** **AOB-Non-stock companies only**

*AOB is assignment of benefits laws to non-contracted providers.
**AWP is the any willing provider law that requires insurers to accept any provider in Indiana into their provider network, who chooses to meet the insurers standards.

States with broad AWP laws and no AOB laws: Arkansas, Indiana, Kentucky, Minnesota and Wyoming.

States with AWP laws for Pharmacy/Pharmacists and no AOB laws: Mississippi, New Jersey, North Dakota, and South Carolina.

States with AWP laws for Pharmacy only and no AOB: Florida, New Hampshire and North Carolina.

This chart clearly demonstrates that only the state of Georgia has a broad AOB law covering most providers *and* an AWP law; however, we note that this law was enacted in 1992 and was likely a response to more restrictive managed care.

No other state has a broad AOB and AWP law like the one proposed in Indiana.

We further examined the issue of AOB in situations that the patient may not necessarily have the ability to make a choice of provider such as in admission to emergency rooms or for certain hospital based providers such as anesthesiologists and radiologists. Ms.Cutter provided the MBTF with a recently enacted regulation from the Department of Managed Care in California which prohibits balanced billing for emergency room services. This appears to be the greatest exposure to the consumer, and the one practice that any AOB legislation would not prevent.

While we find merit in the argument to allow AOB to these hospital based providers, we remain concerned that consumers will be balanced bill.

FINDINGS OF THE MANDATED BENEFITS TASK FORCE ON ASSIGNMENT OF BENEFITS.

Direct payment of claims to participating providers is a key benefit of contracting with a health care payer.

Indiana is an "any willing provider" (AWP) state, meaning any provider willing to meet the terms and conditions of an insurance contract must be offered that contract. Twenty –three states have some form of an AWP law; only 8 of these states apply their AWP law to broad categories of providers. Most are limited to pharmacy or dental.

A total of 19 states have enacted laws that require insurers to make direct payment to non-participating providers, known as assignment of benefit (AOB). Of these 19 states, only 10 have AOB laws that apply to broad categories of providers. Nine states' AOB law only apply to a very limited type of provider such as pharmacy or dental. Of the 10 states that have broad assignment of benefit laws, only one state (Georgia) also has an any willing provider law similar to Indiana's.

No state has enacted a law similar to Indiana HB 1055 which contemplated requiring AOB to insured and self funded plans.

Consumers currently have the choice of using in- or out- of network providers; Consumers may choose to receive services from non-participating providers at lesser reimbursement rates which are clearly defined in their health plans. Many specialty providers generally fall into this category for consumers.

Consumers may not have choice when it comes to hospital based emergency services. They frequently go to the nearest facility and receive care from providers assigned to the emergency room. Even though the hospital facility may be in network, emergency room and some other providers (such as anesthesiology, radiology and pathology) may not participate in the same network.

Consumers will have no protection from balanced billing with an AOB law.

RECOMMENDATIONS OF THE MANDATED BENEFITS TASK FORCE ON ASSIGNMENT OF BENEFIT LEGISLATION.

We recommend that legislation in Indiana on assignment of benefits be limited to medical situations where the consumer may have no choice in the selection of provider, such as hospital based emergency room services, anesthesiology, radiology or pathology.

We recommend that the legislature consider providing some consumer protection from unlimited balanced billed charges in these situations, perhaps similar to that enacted in California.

We recommend that when payments for services by non participating providers are made directly to the insured, a notice be included with the explanation of benefits that the payment should be directed to the non participating provider, if full payment has not already been made.