

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 281

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 3406aa.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3406aa. (1) A contracting entity may grant a third party
2 access to a provider network contract, or a provider's dental
3 services or contractual discounts provided under a provider network
4 contract, if both of the following requirements are met:

5 (a) At the time the provider network contract is entered into
6 or renewed, or when there are material modifications to a contract
7 relevant to granting access to a provider network contract to a
8 third party, the contracting entity allows a provider that is part
9 of the carrier's provider network to choose to not participate in

1 third-party access to the provider network contract or to enter
2 into a contract directly with the health insurer that acquired the
3 provider network. If a provider chooses not to participate in
4 third-party access, the contracting entity must not cancel or
5 otherwise end a contractual relationship with the provider. When
6 initially contracting with a provider, a contracting entity must
7 accept a qualified provider if a provider rejects participation in
8 third-party access. This subdivision does not apply to a
9 contracting entity that is not a health insurer or dental carrier.
10 As used in this subdivision, "qualified provider" means a provider
11 who meets the contracting entity's criteria to enter into the
12 provider network.

13 (b) All of the following are met:

14 (i) The provider network contract specifically states that the
15 contracting entity may enter into an agreement with third parties
16 allowing the third parties to obtain the contracting entity's
17 rights and responsibilities as if the third party were the
18 contracting entity, and if the contracting entity is a dental
19 carrier, the provider chose to participate in third-party access at
20 the time the provider network contract was entered into or renewed.
21 If the contracting entity is an insurer, the third-party access
22 provision of a provider network contract must specifically state
23 that the provider network contract grants third-party access to the
24 provider network and, for provider network contracts with dental
25 carriers, that the dentist has the right to choose not to
26 participate in third-party access.

27 (ii) The third party accessing the contract agrees to comply
28 with all of the provider network contract's terms.

29 (iii) The contracting entity identifies, in writing or in

1 electronic form to the provider, all third parties that would have
2 access to the dental services or contractual discounts of the
3 provider network as of the date the contract is entered into or
4 renewed.

5 (iv) The contracting entity identifies all third parties in
6 existence in a list on its website that is updated at least once
7 every 30 days and displays the date the list was last updated.

8 (v) The contracting entity requires a third party to identify
9 the source of the discount on all remittance advices or
10 explanations of payment under which a discount is taken. This
11 subparagraph does not apply to electronic transactions mandated by
12 the health insurance portability and accountability act of 1996,
13 Public Law 104-191.

14 (vi) The contracting entity notifies the third party of the
15 termination of a provider network contract not later than 30 days
16 after the termination date with the contracting entity.

17 (vii) A third party's right to a provider's discounted rate
18 ceases as of the termination date of the provider network contract.

19 (viii) The contracting entity makes available a copy of the
20 provider network contract relied on in the adjudication of a claim
21 to a participating provider within 30 days after a request from the
22 provider.

23 (2) A provider is not bound by or required to perform dental
24 treatment or services under a provider network contract that has
25 been granted by a contracting entity to a third party if the
26 contracting entity does not meet the requirements under subsection
27 (1).

28 (3) This section does not apply if any of the following apply:

29 (a) Access to a provider network contract is granted to a

1 dental carrier or an entity operating in accordance with the same
2 brand licensee program as the contracting entity or to an entity
3 that is an affiliate of the contracting entity. A list identifying
4 each of the contracting entity's affiliates as affiliates must be
5 made available to a provider on the contracting entity's website.

6 (b) Access to a provider network contract is granted by a
7 dental carrier that retains the responsibility for administering
8 the dental benefit plan in accordance with its applicable provider
9 network contracts, including all fee schedules and processing
10 policies.

11 (c) A provider network contract for dental services provided
12 to beneficiaries under health care coverage that is established or
13 maintained by a local, state, or federal government including any
14 of the following:

15 (i) Medicaid established under title XIX of the social security
16 act, 42 USC 1396 to 1396w-6.

17 (ii) The state children's health insurance program established
18 under title XXI of the social security act, 42 USC 1397aa to
19 1397mm.

20 (iii) Medicare advantage as that term is defined in section
21 3801.

22 (4) As used in this section:

23 (a) "Contracting entity" means a person that enters into
24 direct contracts with providers for the delivery of dental services
25 in the ordinary course of business, including a third-party
26 administrator and a dental carrier.

27 (b) "Dental benefit plan" means a benefits plan that pays or
28 provides dental expense benefits for covered dental services and is
29 delivered or issued for delivery by or through a dental carrier on

1 a stand-alone basis.

2 (c) "Dental carrier" means a nonprofit dental care corporation
3 or other entity authorized to provide dental benefits, or a health
4 benefits plan that includes coverage for dental services.

5 (d) "Dental services" means services for the diagnosis,
6 prevention, treatment, or cure of a dental condition, illness,
7 injury, or disease. Dental services does not include services
8 delivered by a provider that are billed as medical expenses under a
9 health benefits plan.

10 (e) "Dentist" means that term as defined in section 2701 of
11 the public health code, 1978 PA 368, MCL 333.2701.

12 (f) "Provider" means a person that, acting within the scope of
13 licensure or certification, provides dental services or supplies
14 defined by the health benefits or dental benefit plan. Provider
15 does not include a physician organization or physician hospital
16 organization that leases or rents the physician organization's or
17 physician hospital organization's network to a third party.

18 (g) "Provider network contract" means a contract between a
19 contracting entity and a provider that specifies the rights and
20 responsibilities of the contracting entity and provides for the
21 delivery and payment of dental services to an enrollee.

22 (h) "Third party" means a person that enters into a contract
23 with a contracting entity or with another third party to gain
24 access to the dental services or contractual discounts of a
25 provider network contract. Third party does not include an employer
26 or other group for whom the dental carrier or contracting entity
27 provides administrative services.