

SENATE BILL 3162

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6, Part 2, relative to the payment of workers' compensation medical payments and the provision of workers' compensation preferred provider organization services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-204(i)(4), is amended by deleting subdivisions (B), (C) and (D).

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 6, Part 2, is amended by adding the following as a new section thereto:

(a) This section may be referred to as the "Rental and Assignment of PPO Network Rights."

(b) For purposes of this section, unless the context otherwise requires:

(1) "Contracting agent" means any person that is in direct privity of contract with a medical provider to reimburse the medical provider for medical services provided to an injured worker pursuant to this chapter at rates other than those provided under the workers' compensation medical fee schedule. Nothing contained within this section shall be construed to permit the creation of preferred provider organization networks that permit payments above the medical fee schedule adopted by the department; and

(2) "Workers' compensation payor" means an employer, workers' compensation trust, worker's compensation pool or insurer responsible pursuant to § 50-6-405 for paying a medical provider for the delivery of worker's compensation related health care services.

(c) Every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted medical providers and their contracted reimbursement rates shall, upon entering or renewing a medical provider contract, do all of the following:

(1) Disclose to the medical provider whether the list of contracted medical providers may be sold, leased, transferred, or conveyed to other payors or agents, including workers' compensation insurers or self insureds. The disclosure of the ability to sell, lease, transfer or convey the list or network of medical providers shall be in a section of a contract titled "assignment" or "assignability" or similar title;

(2) Disclose whether workers' compensation payors to whom the list of contracted medical providers may be sold, leased, transferred, or conveyed may be permitted to pay a medical provider's contracted rate if less than the workers' compensation fee schedule. The disclosure of the ability to pay a medical provider's contracted rate, if less than the workers' compensation fee schedule, shall be in a section of a contract titled "assignment" or "assignability" or similar title;

(3) Allow medical providers, upon the initial signing or renewal of a medical provider contract, to decline to participate in networks solely to serve workers' compensation payors that are sold, leased, transferred, or conveyed to workers' compensation payors; and

(4) Maintain a web page that contains a complete listing of customers to whom the network is sold, leased, transferred or conveyed that is accessible to all contracted medical providers and updated at least twice a year, as well as maintain a toll-free telephone number accessible to all contracted medical

providers whereby medical providers may access workers' compensation payor summary information and a list of lessees of the network.

(d)

(1) The explanation of payment ("EOP") or explanation of review ("EOR") transmitted to the medical provider shall delineate the following information:

(A) Employer's name;

(B) Injured worker's name;

(C) Name of the workers' compensation payor and the name of the third party administrator if a third party administrator is utilized. If a third party administrator is utilized, then a telephone number for the third party administrator shall be delineated; otherwise, a telephone number for the workers' compensation payor shall be delineated;

(D) Name and telephone number of the entity that analyzes the medical provider bill for the purpose of ensuring that the billed amount complies with the workers' compensation medical fee schedule;

(E) Name and telephone number of the contracting agent that has a written medical provider contract signed by the medical provider whereby the contracting agent or a third party is entitled to access and pay rates other than those provided under the workers' compensation medical fee schedule;

(F) Name and telephone number of the entity that analyzes the medical provider bill for the purpose of reducing the billed amount below the medical fee schedule pursuant to a preferred provider organization network contract, unless the entity is the same entity referenced in subdivision (d)(1)(E);

(G) Amount billed by the medical provider;

(H) Amount permitted by the workers' compensation fee schedule; and

(I) Amount of payment.

(2) Within twenty (20) calendar days of a medical provider submitting in writing to a workers' compensation payor an EOP or EOR that does not comply with subdivision (d)(1), the entity that originally generated the EOP or EOR shall issue to the medical provider a corrected EOP or EOR that complies with subdivision (d)(1).

(3) A workers' compensation payor shall demonstrate that it is entitled to pay a contracted rate within thirty (30) days of receipt of a written request from a medical provider who has received a claim payment from the workers' compensation payor. The medical provider shall include in the request a statement explaining why the payment is not at the correct contracted rate for the services provided. The failure of the medical provider to include such a statement shall relieve the workers' compensation payor from the responsibility of demonstrating that it was entitled to pay the disputed contracted rate. A workers' compensation payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it correctly identifies the contracting agent that originally entered into the contract with the medical provider to pay the claim at the contracted rate.

SECTION 3. This act shall take effect on January 1, 2011, the public welfare requiring it, and shall only apply to workers' compensation medical provider payments made, and an EOR or EOP issued, on or after that effective date of this act.