

2021 Regular Session

HOUSE BILL NO. 387

BY REPRESENTATIVE GREEN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURERS: Provides relative to network leasing by dental insurers

1 AN ACT

2 To enact Subpart H-1 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 22:1171 and 1172, relative to dental provider  
4 network administration; to enhance contractual transparency and options in network  
5 leasing; to provide for definitions; to prohibit certain contracts and waivers; to  
6 require notifications; to provide for applicability; to provide for penalties and  
7 enforcement; to authorize rulemaking; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Subpart H-1 of Part III of Chapter 4 of Title 22 of the Louisiana Revised  
10 Statutes of 1950, comprised of R.S. 22:1171 and 1172, is hereby enacted to read as follows:

11 SUBPART H-1. NETWORK LEASING ACT

12 §1171. Short title; definitions

13 A. This Subpart may be cited as the "Network Leasing Act".

14 B. As used in this Subpart, the following definitions apply:

15 (1) "Contracting entity" means any person or entity, including a third-party  
16 administrator and a dental carrier, that enters into a direct contract with a provider  
17 for the delivery of dental services in the ordinary course of business.

18 (2) "Dental benefit plan" means a benefit plan which pays or provides dental  
19 expense benefits for covered dental services and is delivered or issued for delivery  
20 by or through a dental carrier on a stand-alone basis.

1           (3) "Dental carrier" means a dental insurance company, dental service  
2           corporation, dental plan organization authorized to provide dental benefits, or a  
3           health insurance plan that includes coverage for dental services.

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

8           (5) "Dentist" means any person lawfully licensed by the Louisiana State  
9           Board of Dentistry to practice dentistry in this state.

10           (6) "Health insurance plan" means any hospital or medical insurance policy  
11           or certificate, qualified higher deductible health plan, health maintenance  
12           organization subscriber contract, contract providing benefits for dental care whether  
13           such contract is pursuant to a medical insurance policy or certificate, stand-alone  
14           dental plan, health maintenance provider contract, or managed healthcare plan.

15           (7) "Health insurer" means any entity or person that issues health insurance  
16           plans as described in this Section.

17           (8) "Provider" means an individual or entity which, acting within the scope  
18           of licensure or certification, provides dental services or supplies defined by the  
19           health insurance plan or dental benefit plan. "Provider" does not include a physician  
20           organization or physician hospital organization that leases or rents the physician  
21           organization's or physician hospital organization's network to a third party.

22           (9) "Provider network contract" means a contract between a contracting  
23           entity and a provider that specifies the rights and responsibilities of the contracting  
24           entity and provides for the delivery and payment of dental services to an enrollee.

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

1        §1172. Fair and transparent network contracting; responsible leasing requirements;  
2                applicability; penalties; enforcement; waiver of contractual regulations  
3                prohibited; rules and regulations

4                A. A contracting entity may grant a third party access to a provider network  
5                contract or a provider's dental services or contractual discounts pursuant to a  
6                provider network contract if all of the following terms are met:

7                        (1) The contract specifically states that the contracting entity may enter into  
8                        an agreement with a third party allowing the third party to obtain the contracting  
9                        entity's rights and responsibilities as if the third party is the contracting entity.

10                      (a) If the contracting entity is a dental carrier, the provider chose to  
11                      participate in third-party access at the time the provider network contract was entered  
12                      into or renewed, and for contracts with dental carriers, the dentist has the right to  
13                      choose not to participate in third-party access.

14                      (b) If the contracting entity is an insurer, the third-party access provision of  
15                      any provider network contract specifically states that the contract grants third-party  
16                      access to the provider network.

17                      (2) The third party accessing the contract agrees to comply with all terms of  
18                      the provider network contract.

19                      (3) The contracting entity identifies, in writing or electronic form to the  
20                      provider, all third parties in existence as of the date the contract is entered into or  
21                      renewed.

22                      (4) The contracting entity identifies all third parties in existence in a list on  
23                      its internet website that is updated at least once every ninety days.

24                      (5) The contracting entity notifies network providers that a new third party  
25                      is leasing or purchasing the network at least thirty days in advance of the relationship  
26                      taking effect.

27                      (6)(a) The contracting entity requires a third party to identify the source of  
28                      the discount on all remittance advices or explanations of payment under which a  
29                      discount is taken.

1           (b) The provisions of this Paragraph do not apply to electronic transactions  
2           mandated by the Health Insurance Portability and Accountability Act of 1996.

3           (7) The contracting entity notifies the third party of the termination of a  
4           provider network contract no later than thirty days from the termination date with the  
5           contracting entity.

6           (8) A third party's right to a provider's discounted rate ceases as of the  
7           termination date of the provider network contract.

8           (9) The contracting entity makes available a copy of the provider network  
9           contract relied on in the adjudication of a claim to a participating provider within  
10           thirty days of a request from the provider.

11           B.(1) At the time the provider network contract is entered into or renewed,  
12           or when there are material modifications to a contract relevant to granting access of  
13           a provider network contract to a third party, a dental carrier shall allow any provider  
14           which is part of the carrier's provider network to choose not to participate in third-  
15           party access to the contract or to enter into a contract directly with the health insurer  
16           that acquired the provider network. If a provider opts out of a network lease  
17           arrangement, this does not permit the contracting entity to cancel or otherwise end  
18           a contractual relationship with the provider. When initially contracting with a  
19           provider, a contracting entity shall accept a qualified provider even if a provider  
20           rejects a network lease provision.

21           (2) The provisions of this Subsection do not apply to a contracting entity that  
22           is not a health insurer or dental carrier.

23           C. A provider is not bound by or required to perform dental treatment or  
24           services pursuant to a provider network contract that has been granted to a third party  
25           in violation of this Subpart.

26           D. Applicability. The provisions of this Section do not apply if either of the  
27           following is true:



Proposed law requires that if the contracting entity is an insurer, the third-party access provision of any provider network contract shall also specifically state that the contract grants third-party access to the provider network.

Proposed law requires the third party accessing the contract to comply with all terms of the provider network contract. Requires the contracting entity to provide written or electronic notification to the provider of all third parties in existence as of the date of the contract or subsequent renewal. Further requires the contracting entity to identify all third parties in existence in a list on its internet website at least once every 90 days.

Proposed law requires the contracting entity to notify network providers that a new third party is leasing or purchasing the network at least 30 days prior to the relationship taking effect.

Proposed law requires the contracting entity to cause a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken. This provision of proposed law does not apply to electronic transactions mandated by the HIPAA Act of 1996.

Proposed law requires the contracting entity to notify the third party of termination of a provider network contract no later than 30 days from the termination date with the contracting entity. Further provides that the third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract.

Proposed law requires the contracting entity to make available a copy of the provider network contract relied on in the adjudication of a claim to a participating provider within 30 days of a request from the provider.

Proposed law requires a dental carrier to allow any provider which is part of the carrier's provider network to opt not to participate in third-party access to the contract or to enter into a contract directly with the health insurer that acquired the provider network. Prohibits a contracting entity from canceling or otherwise ending a contractual relationship on the basis that a provider opts out of a lease arrangement. Further requires a contracting entity to accept a qualified provider even if a provider rejects a network lease option. These provisions of proposed law do not apply to a contracting entity that is not a health insurer or dental carrier.

Proposed law provides that a provider is not bound by or required to perform dental treatment or services per the terms of a provider network contract that has been granted to a third party in violation of proposed law.

Proposed law does not apply if access to a provider network contract is granted to a dental carrier or an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity, or if the provider network contract for dental services is provided to beneficiaries of state-sponsored Medicaid and LaCHIP programs.

Proposed law prohibits waiver of contractual provisions. Any contractual arrangement in conflict with proposed law or that purports to waive any requirement is of no effect.

Proposed law authorizes the commissioner of insurance to promulgate rules in accordance with the APA that are consistent with proposed law and the laws of this state, and requires enforcement of penalties for violations.

(Adds R.S. 22:1171 and 1172)