

Hall of the House of Representatives

91st General Assembly - Regular Session, 2017

Amendment Form

Subtitle of House Bill No. 2212

TO PROHIBIT THE USE OF AN ALL-PRODUCTS CLAUSE IN A HEALTHCARE PROVIDER CONTRACT.

Amendment No. 1 to House Bill No. 2212

Amend House Bill No. 2212 as originally introduced:

Delete the title in its entirety and substitute the following:

"AN ACT TO PROHIBIT THE USE OF AN ALL-PRODUCTS CLAUSE IN A HEALTHCARE PROVIDER CONTRACT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute the following:

"TO PROHIBIT THE USE OF AN ALL-PRODUCTS CLAUSE IN A HEALTHCARE PROVIDER CONTRACT; AND TO DECLARE AN EMERGENCY."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an additional subchapter to read as follows:

Subchapter 12 – Prohibition of All-Products Clauses

23-99-1201. Legislative findings.

The General Assembly finds that:

(1) An all-products clause is an anticompetitive tactic used in certain healthcare provider contracts by a healthcare insurer;

(2) A healthcare insurer may use an all-products clause to require a healthcare provider with which the healthcare insurer has a contract to provide healthcare services to agree to participate in other plans or products that are offered by the healthcare insurer;

(3) An all-products clause does not permit the healthcare provider to select or negotiate the terms of the health benefit plan in which the healthcare provider will participate;

(4) An all-products clause unfairly requires a healthcare provider to participate in a health benefit plan in which the healthcare provider:

(A) Has no interest;



(B) Has not been provided the necessary information to make an informed decision; or
(C) Is bound to health benefit plans not yet in existence;
and

(5) An all-products clause is a form of tying arrangement that suppresses competition by allowing a healthcare insurer with dominant market power to artificially influence prices and impairs competition in the health insurance marketplace by discouraging potential competitors who might otherwise enter the health insurance marketplace.

23-99-1202. Definitions.

As used in this subchapter:

(1) "All-products clause" means a provision in a contract between a healthcare insurer and a healthcare provider that requires a healthcare provider, as a condition of participation or continuation in a provider network or a health benefit plan, to:

(A) Serve in another provider network utilized by the healthcare insurer for a health benefit plan or product; or

(B) Participate in another health benefit plan offered by the healthcare insurer;

(2)(A) "Health benefit plan" means an individual, blanket, or any group plan, policy, or contract for healthcare services issued or delivered in this state by a healthcare insurer.

(B) "Health benefit plan" does not include:

(i) A disability income plan;

(ii) A credit insurance plan;

(iii) Insurance coverage issued as a supplement to liability insurance;

(iv) Medical payments under an automobile or homeowners insurance plan;

(v) A health benefit plan provided under Arkansas Constitution, Article 5, § 32; the Workers' Compensation Law, § 11-9-101 et seq.; and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) A plan that provides only indemnity for hospital confinement;

(vii) An accident-only plan;

(viii) A specified disease plan;

(ix) Traditional Medicaid; or

(x) A long-term care insurance plan;

(3) "Healthcare insurer" means:

(A) An insurance company, hospital and medical service corporation, or health maintenance organization that issues or delivers a health benefit plan in this state; and

(B) Any sponsor of a nonfederal self-funded governmental or church plan;

(4) "Healthcare provider" means a person or entity that is licensed, certified, or otherwise authorized by the laws of this state to provide services and goods used for the purpose of or incidental to the purpose of preventing, alleviating, curing, or healing human illness or injury;

(5) "Products" means the health benefit plan options that are offered by a healthcare insurer;

(6) "Provider contract" means a contract between a healthcare insurer and a healthcare provider; and

(7) "Provider network" means a group of healthcare providers who are contracted to provide healthcare services to plan members at contracted rates.

23-99-1203. All-products clause – Prohibition.

(a) This subchapter applies to a provider contract that is delivered, issued for delivery, reissued, extended, or has a change in any term of the provider contract or a related health benefit plan that affects the provider contract in this state beginning on the effective date of this act.

(b) If an all-products clause is in a provider contract, the all-products clause is void.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the healthcare insurance marketplace is in flux, and changes are occurring rapidly at the state and federal level; that this state seeks to enlarge and promote an attractive commercial environment or marketplace and to encourage competition that enhances healthcare options for consumers in this state; and that this act is immediately necessary to prevent anticompetitive practices by healthcare insurers using all-products clauses that may deter many healthcare insurers from entering the state healthcare insurance marketplace. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read _____

By: Representative Magie

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Chief Clerk