

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/14/17

A Bill

HOUSE BILL 2209

By: Representative M. Gray

For An Act To Be Entitled

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

Subtitle

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

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

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

Subchapter 12 – 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 another provider network, health benefit plan, or product that is offered by the healthcare insurer;

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



(4) An all-products clause may unfairly require a healthcare provider to participate in another provider network, health benefit plan, or product in which the healthcare provider:

(A) May have no interest;

(B) Has not been provided the necessary information to make an informed decision; or

(C) Is bound to a provider network, health benefit plan, or product 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 that 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 the healthcare provider, as a condition of participation or continuation in a provider network, health benefit plan, or product, to serve in another provider network utilized by the healthcare insurer for a health benefit plan or product, or to participate in another health benefit plan offered by the healthcare insurer;

(2)(A) "Health benefit plan" means an individual, blanket, or 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) "Product" means a health benefit plan option that is 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 – Option to participate.

(a) A healthcare provider may opt out of a provider contract that contains an all-products clause.

(b) On the effective date of this act, 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 in this state or a change in any term of a related health benefit plan that affects the provider contract in this state.

/s/M. Gray