

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 provide for definitions; to prohibit certain contracts and
5 waivers; to require notifications; to provide for applicability; to provide for penalties
6 and enforcement; to authorize rulemaking; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

10 SUBPART H-1. NETWORK LEASING ACT

11 §1171. Short title; definitions

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

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

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

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

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

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

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

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

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

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

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

28 (10) "Third party" means a person or entity that enters into a contract with
29 a contracting entity or with another third party to gain access to the dental services

1 or contractual discounts of a provider network contract. "Third party" does not
2 include an employer or other group for whom the dental carrier or contracting entity
3 provides administrative services.

4 §1172. Fair and transparent network contracting; responsible leasing requirements;
5 applicability; penalties; enforcement; waiver of contractual regulations
6 prohibited; rules and regulations

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

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

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

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

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

22 (3) The contracting entity identifies, in writing or electronic form to the
23 provider, all third parties in existence as of the date of the contract.

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

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

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

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

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

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

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

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

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

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

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

3 (1)(a) Access to a provider network contract is granted to a dental carrier or
4 an entity operating in accordance with the same brand licensee program as the
5 contracting entity or to an entity that is an affiliate of the contracting entity.

6 (b) A contracting entity shall make available to a provider on its website a
7 list of the contracting entity's affiliates.

8 (2) A provider network contract for dental services is provided to
9 beneficiaries of state-sponsored Medicaid and LaCHIP programs.

10 E. Penalties. The commissioner of insurance shall enforce the provisions of
11 this Subpart and impose any penalty or remedy authorized by this Title against any
12 violator of the provisions of this Subpart.

13 F. The provisions of this Subpart cannot be waived by contract. Any
14 contractual arrangement in conflict with the provisions of this Subpart or that
15 purports to waive any requirement of this Subpart is of no effect.

16 G. The commissioner of insurance may promulgate rules in accordance with
17 the Administrative Procedure Act that are consistent with the provisions of this
18 Subpart and the laws of this state.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 387 Reengrossed

2021 Regular Session

Green

Abstract: Creates the Network Leasing Act to provide for contractual regulations between dental carriers, dentists, and third parties.

Proposed law defines "contracting entity", "dental benefit plan", "dental carrier", "dental services", "dentist", "health insurance plan", "health insurer", "provider", "provider network contract", and "third party".

Proposed law authorizes a contracting entity to grant a third party access to a provider network contract or a provider's dental services or contractual discounts if certain contractual requirements are met. Further requires the contract to specifically state that the contracting entity may contractually allow a third party to obtain the contracting entity's rights and responsibilities as if the contracting entity and the third party are one.

Proposed law requires that if the contracting entity is a dental carrier, the carrier shall have chosen to participate in third-party access at the time the provider network contract was entered into or renewed and, for contracts with dental carriers, a dentist may opt not to participate in third-party access.

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. 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 in writing or electronic form 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Make a technical change to the title.

The House Floor Amendments to the engrossed bill:

1. Make modifications to require a contracting entity to identify to a provider all third parties in existence as of the date of the contract.
2. Require a contracting entity's notification to providers to be in writing or electronic form with respect to a new third party's lease or purchase of a network.