

ACT No. 26

2021 Regular Session

HOUSE BILL NO. 387

BY REPRESENTATIVE GREEN

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.

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

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

23 (4) "Dental services" means services for the diagnosis, prevention, treatment,
24 or cure of a dental condition, illness, injury, or disease. "Dental services" does not

1 include services delivered by a provider that are billed as medical expenses per the
 2 terms of a health insurance plan.

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

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

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

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

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

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

25 §1172. Fair and transparent network contracting; responsible leasing requirements;
 26 applicability; penalties; enforcement; waiver of contractual regulations
 27 prohibited; rules and regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Section 2. The provisions of this Act shall apply to any contract issued or renewed
8 after August 1, 2021.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____