

REVISED
State Corporation Commission
2021 Fiscal Impact Statement

1. Bill Number: SB1289

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. Patron: Surovell

3. Committee: Commerce and Labor

4. Title: Health insurance; provider contracts.

5. Summary: Requires that each provider contract include provisions (i) requiring providers to provide health care services to enrollees in a manner similar to and within the same time availability in which the provider provides health care services to any other individual and (ii) prohibiting a provider from discriminating against any enrollee as a result of the enrollee's enrollment in a health plan or on the basis of the enrollee's race, color, creed, national origin, ancestry, religion, sex, marital status, age, disability, payment source, state of health, need for health care services, status as a litigant except in cases where the enrollee claims medical malpractice by the provider, status as a Medicare enrollee, status as a medical assistance recipient, sexual orientation, or gender identity, or on any other basis prohibited by law. The bill prohibits a provider contract from requiring a provider to provide any type or kind of health care service to enrollees that it does not customarily provide to others. The bill provides that a provider that violates the anti-discrimination provisions may be subject to fines and other discipline from the provider's licensing authority and an enrollee injured as result of any discrimination is entitled initiate a civil action against the provider.

The bill also prohibits a provider contract from (a) directly or indirectly restricting the carrier from directing or steering enrollees to other health care providers or offering incentives to encourage enrollees to utilize specific providers; (b) requiring the carrier to enter into any additional contract with an affiliate of the provider as a condition of entering into a contract with such provider or to agree to payment rates or other terms for any affiliate not party to the contract of the provider involved; or (c) restricting other carriers not party to the contract from paying a lower rate for items or services than the contracting plan or issuer pays for such items or services.

The bill prohibits a provider from terminating or failing to renew the contractual relationship with a carrier, or any provider contract, or otherwise penalize any carrier, for invoking any of the carrier's rights. The bill also provides that a provider or carrier injured as a result of a violation or threatened violation of any provision governing carrier business practices is entitled to injunctive relief against any and all violators or persons threatening violation.

The bill requires a provider contract to permit a provider a maximum of 90 days from the date a health care service is rendered to submit a claim for payment. The bill requires carriers to supply

fee schedules in writing and in machine-readable electronic format and to provide the complete fee schedule applicable to the provider for each health plan in which the provider participates or is proposed to participate. The bill requires that amendments to a provider contract be presented in a manner so as to allow the provider to easily identify the specific terms being proposed for amendment and that proposed amendments be formatted to clearly identify the changes to the language of the agreement.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates: No Fiscal Impact on the State Corporation Commission

8. Fiscal Implications: None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: The State Corporation Commission Bureau of Insurance suggested to the patron that Line 144 in SB 1289 should be amended to change “12 months” to “90 days.” The bill changes the provider claim filing timeframe to no more than 90 days. The timeframe for a retroactive denial is tied to the lesser amount of 12 months or the date by which the contract allows carriers to submit claims. If claims must be submitted within a period of no later than 90 days, 90 days would be the maximum length of time allowed, as opposed to 12 months.

11. Other comments: House Bill 2274 is identical to Senate Bill 1289. House Bill 2021 is also legislation on provider contracts.

Date: 01/19/21/V. Tompkins