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SENATE BILL No. 189

Proposed Changes to January 23, 2026 printing by AM018907

DIGEST OF PROPOSED AMENDMENT

Facility based nonparticipating providers. Provides that, subject to certain limitations, a health carrier may assess an administrative fee or penalty not to exceed 10% of the allowed amount of the facility's claim against a facility for the use of an out of network practitioner in a facility based setting. Provides that if a health carrier assesses an administrative fee or penalty in violation of the limitations, the health carrier commits an unfair and deceptive act or practice in the business of insurance. Requires an out of network provider that submits a request for independent dispute resolution to provide notice to the health provider facility not later than 24 hours after submitting the request. Makes corresponding changes.

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. ~~<IC 27-1-37-11, AS>~~ [IC 27-1-45-8.5 IS] ADDED
2 ~~<BY P.L.215-2025,>~~ [TO THE INDIANA CODE AS A NEW]
3 SECTION ~~<52, IS AMENDED>~~ TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: [Sec. <11>[8.5]. <(a)>The
5 department shall do the following:
6 ~~(1) Require health carriers to meet network adequacy~~
7 ~~standards that are no less stringent than the network~~
8 ~~adequacy standards established>~~ [(a) This section applies to
9 facility based services that are subject to this chapter.
10 (b) As used in this section, "health carrier" has the meaning
11 set forth in IC 27-1-36.8-2.
12 (c) Subject to the limitations set forth in subsections (d)
13 through (g), a health carrier may assess an administrative fee or
14 penalty not to exceed ten percent (10%) of the allowed amount of

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1 the facility's claim against a facility for the use of an out of network
 2 practitioner in a facility based setting.

3 (d) A health carrier may not assess an administrative fee or
 4 penalty under subsection (c) if:

5 (1) the services are emergency services;

6 (2) the facility is:

7 (A) a rural hospital (as defined in 410 IAC 15-1.1-19.5);

8 (B) a critical access hospital that meets the criteria
 9 under 42 CFR 485.601 through 42 CFR 485.647; or

10 (C) an acute care hospital that is at or above the
 11 seventy-fifth percentile of the proportion of Medicare
 12 beneficiaries who are dually eligible for Medicare and
 13 Medicaid, as determined] by the Centers for Medicare
 14 and Medicaid Services↔[:]

15 ~~(2) When assessing whether a~~↔[:]
 16 (3) an in network
 17 practitioner was not available to furnish the service within a
 18 distance of not more than twenty-five (25) miles from a
 19 covered individual's residence;

20 (4) the health carrier granted prior authorization for the use
 21 of an out of network practitioner in the facility based setting;

22 or

23 (5) the] health carrier has ~~met the network adequacy~~
 24 ~~standards, consider the availability and variety of~~
 25 ~~independent specialty providers that provide services within~~
 26 ~~in network provider facilities in~~↔[:]
 27 [not complied with
 28 subsections (e) through (g).

29 (e) Before assessing an administrative fee or penalty under this
 30 section, a health carrier shall do the following:

31 (1) Provide written notice to the facility that includes the
 32 following:

33 (A) A description of the conduct that is the basis for the
 34 proposed fee or penalty, including applicable dates of
 35 service.

36 (B) Identification of each out of network practitioner
 37 involved, including the practitioner's name and national
 38 provider identifier, if known.

39 (C) The amount of the proposed fee or penalty and the
 40 methodology used to calculate the amount.

41 (D) A description of the actions that will constitute a
 42 cure.

(E) The name and contact information of a
representative authorized to negotiate on behalf of] the

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- 1 health ~~carrier's network.~~
 2 ~~(b)~~ carrier.
 3 (2) Deliver the notice by electronic mail to an address
 4 designated by the health provider facility and by certified
 5 mail.
 6 (3) Allow a sixty (60) day cure period that begins on the date
 7 the health provider facility receives the notice.
 8 (f) A health carrier may not assess ~~a health provider facility~~
 9 ~~or a provider~~ an administrative fee or penalty ~~related to the~~
 10 ~~provision of care to an individual that involves an out of network~~
 11 ~~provider.~~
 12 ~~(e)~~ during the cure period related to conduct described in the
 13 notice under subsection (e).
 14 (g) For purposes of subsections (e) and (f), a cure is satisfied
 15 when:
 16 (1) the health carrier and the facility engage in good faith
 17 efforts to negotiate a resolution, including:
 18 (A) at least one (1) conference between authorized
 19 representatives; and
 20 (B) a reasonable exchange of information necessary to
 21 evaluate and address the conduct described in the notice
 22 under subsection (e); and
 23 (2) within the cure period, the health carrier and facility
 24 agree upon a resolution to the conduct described in the notice
 25 under subsection (e).
 26 (h) If a health carrier assesses an administrative fee or
 27 penalty under subsection (~~b~~) (c) in violation of the limitations set
 28 forth in subsections (d) through (g), the health carrier commits an
 29 unfair and deceptive act or practice in the business of insurance
 30 under IC 27-4-1-4 and is subject to the penalties and procedures set
 31 forth in IC 27-4-1.
 32 [(i) An out of network provider that submits a request for
 33 independent dispute resolution under 42 U.S.C. 300gg-111 shall
 34 provide notice to the health provider facility not later than
 35 twenty-four (24) hours after submitting the request.
 36 (j) The notice required under subsection (i) must include the
 37 following:
 38 (1) The date of service.
 39 (2) The facility at which the service was provided.
 40 (3) The out of network practitioner's name and national
 41 provider identifier.
 42 (4) The service codes submitted to independent dispute

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- resolution.
- (5) The billed charges.
- (6) The qualifying payment amount.
- (7) The date the independent dispute resolution request was submitted.
- (8) The independent dispute resolution entity selected or proposed.
- (9) A written attestation, signed by the out of network practitioner, that the independent dispute resolution request:
 - (A) complies with the eligibility procedural requirements of 42 U.S.C. 300gg-111 and 45 CFR Part 149, Subpart F;
 - (B) follows completion of the required open negotiation period;
 - (C) is not filed outside applicable federal time limits;
 - (D) does not include items or services that are excluded, improperly bundled, or otherwise ineligible for federal independent dispute resolution; and
 - (E) is not barred under federal law or regulation.

SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.158-2024, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

- (1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:
 - (A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;
 - (B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;
 - (C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;
 - (D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or
 - (E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

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1 (2) Making, publishing, disseminating, circulating, or placing
 2 before the public, or causing, directly or indirectly, to be made,
 3 published, disseminated, circulated, or placed before the public,
 4 in a newspaper, magazine, or other publication, or in the form of
 5 a notice, circular, pamphlet, letter, or poster, or over any radio or
 6 television station, or in any other way, an advertisement,
 7 announcement, or statement containing any assertion,
 8 representation, or statement with respect to any person in the
 9 conduct of the person's insurance business, which is untrue,
 10 deceptive, or misleading.

11 (3) Making, publishing, disseminating, or circulating, directly or
 12 indirectly, or aiding, abetting, or encouraging the making,
 13 publishing, disseminating, or circulating of any oral or written
 14 statement or any pamphlet, circular, article, or literature which
 15 is false, or maliciously critical of or derogatory to the financial
 16 condition of an insurer, and which is calculated to injure any
 17 person engaged in the business of insurance.

18 (4) Entering into any agreement to commit, or individually or by
 19 a concerted action committing any act of boycott, coercion, or
 20 intimidation resulting or tending to result in unreasonable
 21 restraint of, or a monopoly in, the business of insurance.

22 (5) Filing with any supervisory or other public official, or
 23 making, publishing, disseminating, circulating, or delivering to
 24 any person, or placing before the public, or causing directly or
 25 indirectly, to be made, published, disseminated, circulated,
 26 delivered to any person, or placed before the public, any false
 27 statement of financial condition of an insurer with intent to
 28 deceive. Making any false entry in any book, report, or statement
 29 of any insurer with intent to deceive any agent or examiner
 30 lawfully appointed to examine into its condition or into any of its
 31 affairs, or any public official to which such insurer is required by
 32 law to report, or which has authority by law to examine into its
 33 condition or into any of its affairs, or, with like intent, willfully
 34 omitting to make a true entry of any material fact pertaining to
 35 the business of such insurer in any book, report, or statement of
 36 such insurer.

37 (6) Issuing or delivering or permitting agents, officers, or
 38 employees to issue or deliver, agency company stock or other
 39 capital stock, or benefit certificates or shares in any common law
 40 corporation, or securities or any special or advisory board
 41 contracts or other contracts of any kind promising returns and
 42 profits as an inducement to insurance.

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- (7) Making or permitting any of the following:
 - (A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract. However, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.
 - (B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. However, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.
 - (C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:
 - (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
 - (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
 - (iii) policies or contracts of any other kind or kinds of insurance whatsoever.
- However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly

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1 discriminatory charge or rate or any charge or rate determined by
 2 the department or commissioner to meet the requirements of any
 3 other insurance rate regulatory law of this state.

4 (8) Except as otherwise expressly provided by IC 27-1-47 or
 5 another law, knowingly permitting or offering to make or making
 6 any contract or policy of insurance of any kind or kinds
 7 whatsoever, including but not in limitation, life annuities, or
 8 agreement as to such contract or policy other than as plainly
 9 expressed in such contract or policy issued thereon, or paying or
 10 allowing, or giving or offering to pay, allow, or give, directly or
 11 indirectly, as inducement to such insurance, or annuity, any
 12 rebate of premiums payable on the contract, or any special favor
 13 or advantage in the dividends, savings, or other benefits thereon,
 14 or any valuable consideration or inducement whatever not
 15 specified in the contract or policy; or giving, or selling, or
 16 purchasing or offering to give, sell, or purchase as inducement
 17 to such insurance or annuity or in connection therewith, any
 18 stocks, bonds, or other securities of any insurance company or
 19 other corporation, association, limited liability company, or
 20 partnership, or any dividends, savings, or profits accrued
 21 thereon, or anything of value whatsoever not specified in the
 22 contract. Nothing in this subdivision and subdivision (7) shall be
 23 construed as including within the definition of discrimination or
 24 rebates any of the following practices:

25 (A) Paying bonuses to policyholders or otherwise abating
 26 their premiums in whole or in part out of surplus
 27 accumulated from nonparticipating insurance, so long as
 28 any such bonuses or abatement of premiums are fair and
 29 equitable to policyholders and for the best interests of the
 30 company and its policyholders.

31 (B) In the case of life insurance policies issued on the
 32 industrial debit plan, making allowance to policyholders
 33 who have continuously for a specified period made
 34 premium payments directly to an office of the insurer in an
 35 amount which fairly represents the saving in collection
 36 expense.

37 (C) Readjustment of the rate of premium for a group
 38 insurance policy based on the loss or expense experience
 39 thereunder, at the end of the first year or of any subsequent
 40 year of insurance thereunder, which may be made
 41 retroactive only for such policy year.

42 (D) Paying by an insurer or insurance producer thereof duly

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1 licensed as such under the laws of this state of money,
 2 commission, or brokerage, or giving or allowing by an
 3 insurer or such licensed insurance producer thereof
 4 anything of value, for or on account of the solicitation or
 5 negotiation of policies or other contracts of any kind or
 6 kinds, to a broker, an insurance producer, or a solicitor duly
 7 licensed under the laws of this state, but such broker,
 8 insurance producer, or solicitor receiving such
 9 consideration shall not pay, give, or allow credit for such
 10 consideration as received in whole or in part, directly or
 11 indirectly, to the insured by way of rebate.

12 (9) Requiring, as a condition precedent to loaning money upon
 13 the security of a mortgage upon real property, that the owner of
 14 the property to whom the money is to be loaned negotiate any
 15 policy of insurance covering such real property through a
 16 particular insurance producer or broker or brokers. However, this
 17 subdivision shall not prevent the exercise by any lender of the
 18 lender's right to approve or disapprove of the insurance company
 19 selected by the borrower to underwrite the insurance.

20 (10) Entering into any contract, combination in the form of a
 21 trust or otherwise, or conspiracy in restraint of commerce in the
 22 business of insurance.

23 (11) Monopolizing or attempting to monopolize or combining or
 24 conspiring with any other person or persons to monopolize any
 25 part of commerce in the business of insurance. However,
 26 participation as a member, director, or officer in the activities of
 27 any nonprofit organization of insurance producers or other
 28 workers in the insurance business shall not be interpreted, in
 29 itself, to constitute a combination in restraint of trade or as
 30 combining to create a monopoly as provided in this subdivision
 31 and subdivision (10). The enumeration in this chapter of specific
 32 unfair methods of competition and unfair or deceptive acts and
 33 practices in the business of insurance is not exclusive or
 34 restrictive or intended to limit the powers of the commissioner
 35 or department or of any court of review under section 8 of this
 36 chapter.

37 (12) Requiring as a condition precedent to the sale of real or
 38 personal property under any contract of sale, conditional sales
 39 contract, or other similar instrument or upon the security of a
 40 chattel mortgage, that the buyer of such property negotiate any
 41 policy of insurance covering such property through a particular
 42 insurance company, insurance producer, or broker or brokers.

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1 However, this subdivision shall not prevent the exercise by any
 2 seller of such property or the one making a loan thereon of the
 3 right to approve or disapprove of the insurance company selected
 4 by the buyer to underwrite the insurance.
 5 (13) Issuing, offering, or participating in a plan to issue or offer,
 6 any policy or certificate of insurance of any kind or character as
 7 an inducement to the purchase of any property, real, personal, or
 8 mixed, or services of any kind, where a charge to the insured is
 9 not made for and on account of such policy or certificate of
 10 insurance. However, this subdivision shall not apply to any of
 11 the following:
 12 (A) Insurance issued to credit unions or members of credit
 13 unions in connection with the purchase of shares in such
 14 credit unions.
 15 (B) Insurance employed as a means of guaranteeing the
 16 performance of goods and designed to benefit the
 17 purchasers or users of such goods.
 18 (C) Title insurance.
 19 (D) Insurance written in connection with an indebtedness
 20 and intended as a means of repaying such indebtedness in
 21 the event of the death or disability of the insured.
 22 (E) Insurance provided by or through motorists service
 23 clubs or associations.
 24 (F) Insurance that is provided to the purchaser or holder of
 25 an air transportation ticket and that:
 26 (i) insures against death or nonfatal injury that occurs
 27 during the flight to which the ticket relates;
 28 (ii) insures against personal injury or property damage
 29 that occurs during travel to or from the airport in a
 30 common carrier immediately before or after the flight;
 31 (iii) insures against baggage loss during the flight to
 32 which the ticket relates; or
 33 (iv) insures against a flight cancellation to which the
 34 ticket relates.
 35 (14) Refusing, because of the for-profit status of a hospital or
 36 medical facility, to make payments otherwise required to be
 37 made under a contract or policy of insurance for charges
 38 incurred by an insured in such a for-profit hospital or other
 39 for-profit medical facility licensed by the Indiana department of
 40 health.
 41 (15) Refusing to insure an individual, refusing to continue to
 42 issue insurance to an individual, limiting the amount, extent, or

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- 1 kind of coverage available to an individual, or charging an
- 2 individual a different rate for the same coverage, solely because
- 3 of that individual's blindness or partial blindness, except where
- 4 the refusal, limitation, or rate differential is based on sound
- 5 actuarial principles or is related to actual or reasonably
- 6 anticipated experience.
- 7 (16) Committing or performing, with such frequency as to
- 8 indicate a general practice, unfair claim settlement practices (as
- 9 defined in section 4.5 of this chapter).
- 10 (17) Between policy renewal dates, unilaterally canceling an
- 11 individual's coverage under an individual or group health
- 12 insurance policy solely because of the individual's medical or
- 13 physical condition.
- 14 (18) Using a policy form or rider that would permit a
- 15 cancellation of coverage as described in subdivision (17).
- 16 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 17 concerning motor vehicle insurance rates.
- 18 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 19 to interest rate guarantees.
- 20 (21) Violating IC 27-8-24.3 concerning insurance and health
- 21 plan coverage for victims of abuse.
- 22 (22) Violating IC 27-8-26 concerning genetic screening or
- 23 testing.
- 24 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 25 insurance producers.
- 26 (24) Violating IC 27-1-38 concerning depository institutions.
- 27 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 28 the resolution of an appealed grievance decision.
- 29 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 30 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 31 2007, and repealed).
- 32 (27) Violating IC 27-2-21 concerning use of credit information.
- 33 (28) Violating IC 27-4-9-3 concerning recommendations to
- 34 consumers.
- 35 (29) Engaging in dishonest or predatory insurance practices in
- 36 marketing or sales of insurance to members of the United States
- 37 Armed Forces as:
- 38 (A) described in the federal Military Personnel Financial
- 39 Services Protection Act, P.L. 109-290; or
- 40 (B) defined in rules adopted under subsection (b).
- 41 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 42 life insurance.

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- 1 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 2 (32) Violating IC 27-8-5-29 concerning health plans offered
- 3 through a health benefit exchange (as defined in IC 27-19-2-8).
- 4 (33) Violating a requirement of the federal Patient Protection
- 5 and Affordable Care Act (P.L. 111-148), as amended by the
- 6 federal Health Care and Education Reconciliation Act of 2010
- 7 (P.L. 111-152), that is enforceable by the state.
- 8 (34) After June 30, 2015, violating IC 27-2-23 concerning
- 9 unclaimed life insurance, annuity, or retained asset account
- 10 benefits.
- 11 (35) Willfully violating IC 27-1-12-46 concerning a life
- 12 insurance policy or certificate described in IC 27-1-12-46(a).
- 13 (36) Violating IC 27-1-37-7 concerning prohibiting the
- 14 disclosure of health care service claims data.
- 15 (37) Violating IC 27-4-10-10 concerning virtual claims
- 16 payments.
- 17 (38) Violating IC 27-1-24.5 concerning pharmacy benefit
- 18 managers.
- 19 (39) Violating IC 27-7-17-16 or IC 27-7-17-17 concerning the
- 20 marketing of travel insurance policies.
- 21 (40) Violating IC 27-1-49 concerning individual prescription
- 22 drug rebates.
- 23 (41) Violating IC 27-1-50 concerning group prescription drug
- 24 rebates.
- 25 **(42) Violating ~~IC 27-1-37-11~~ [\[IC 27-1-45-8.5\]](#) concerning**
- 26 **an administrative fee or penalty imposed on a ~~health~~**
- 27 **~~provider~~ facility ~~or a provider~~ by a health carrier related**
- 28 **to the provision of care to an individual that involves an out**
- 29 **of network ~~provider~~ [\[practitioner\]](#).**
- 30 (b) Except with respect to federal insurance programs under
- 31 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 32 commissioner may, consistent with the federal Military Personnel
- 33 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules
- 34 under IC 4-22-2 to:
- 35 (1) define; and
- 36 (2) while the members are on a United States military
- 37 installation or elsewhere in Indiana, protect members of the
- 38 United States Armed Forces from;
- 39 dishonest or predatory insurance practices.
- 40 **SECTION 3. An emergency is declared for this act.**

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