SENATE BILL 1797
By Reeves

HOUSE BILL 2093

By Williams

AN ACT to amend Tennessee Code Annotated, Title 56; Title 68, Chapter 11 and Title 71, Chapter 5, relative to managed care organizations.

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

SECTION 1. Tennessee Code Annotated, Section 71-5-1412, is amended by deleting the section and substituting:

(a) As used in this section:

(1) "Bureau" means the bureau of TennCare;

(2) "Managed care organization" or "MCO" means a health maintenance organization, behavioral health organization, or managed health insurance issuer that has a contract with the bureau and participates in the TennCare program;

(3) "Qualified nursing facility" means a nursing home that is licensed under title 68, chapter 11, part 2 and is certified by the bureau to provide medicaid nursing facility services; and

(4) "Termination":

(A) Means the involuntary removal, exclusion, or non-renewal of a qualified medicaid provider from an MCO's provider network or the medicaid program; and

(B) Does not include the voluntary withdrawal by the qualified medicaid provider.

(b) A managed care organization shall contract with any qualified nursing facility certified by the federal centers for medicare and medicaid services that provide medicaid nursing facility services pursuant to an approved preadmission evaluation (PAE) and is

willing to contract with the MCO to provide such services under the same terms and conditions as are offered to any other participating facility contracted with that MCO to provide those services under any policy, contract, or plan that is part of the TennCare managed long-term care service delivery system. The terms and conditions do not include the rate of reimbursement.

(c)

(1) A managed care organization is prohibited from adopting any participation requirements, network admission criteria, or termination standards for a qualified nursing facility beyond those established by the bureau. However, the MCO may enforce other contractual provisions that do not affect the facility's participation status.

(2) A managed care organization may enforce the MCO's contract with a nursing facility, except that the terms of the facility contract must not violate this section and any enforcement of the MCO's facility contract must strictly comply with the requirements of this section.

(d)

(1) The bureau has exclusive authority to determine whether a qualified nursing facility may be terminated from participation in the TennCare program, which includes the termination of a qualified nursing facility's contract with a managed care organization.

(2) An MCO shall not suspend, deny, refuse to review, terminate, or otherwise take any action resulting in the actual or constructive termination of a qualified nursing facility contract unless:

(A) The bureau has taken a final action to terminate the facility's medicaid provider agreement;

(B) The bureau has authorized termination of the specific contract by written directive to the MCO to terminate or modify the qualified nursing facility's contract with the MCO because the bureau has determined such termination or modification is in the best interest of this state;

(C) The bureau has suspended payment to a provider on account of a pending investigation of a credible allegation of fraud or abuse; or

(D) The qualified nursing facility has been excluded from the medicare or medicaid program.

(e)

(1) A managed care organization participating in the long-term care service delivery system shall not:

(A) Deny a qualified nursing facility the right to participate as a provider in the medicaid program or an MCO network on the same terms and conditions as are offered to another similarly situated provider of the same type; or

(B) Take an action resulting in the actual or constructive termination of a qualified nursing facility from participation in the medicaid program or an MCO network except for cause, as described in subsection (f), or except under authority provided to the bureau under federal or state law.

(2)

(A) An MCO is prohibited from independently determining a qualified nursing facility's eligibility to participate in the TennCare program.

(B) The bureau has exclusive authority to determine whether a qualified nursing facility is eligible to participate in the TennCare program.

(f)

(1) A managed care organization shall not include a provision in the MCO's contract with a qualified nursing facility to provide medicaid nursing facility services that permit actual or constructive termination by the MCO without cause, for convenience, or without specifying the grounds for termination.

(2) A contractual provision that grants an MCO authority to terminate a provider contract independent of an action by the bureau is void and unenforceable as contrary to public policy.

(3) The bureau shall review and approve all standard contract templates used by MCOs for facility contracting to ensure compliance with this subsection (f).

(g)

(1) If a managed care organization identifies concerns regarding a contracted qualified nursing facility's performance, compliance, or quality of care, then the MCO shall:

(A) Report the concerns to the bureau with supporting documentation;

(B) Continue the provider contract while the bureau reviews the allegation and makes a determination; and

(C) Cooperate with any corrective action plan established by the bureau.

(2)

(A) During the review period by the bureau, as described in subdivision (g)(1)(B), the managed care organization shall:

(i) Honor the provider contract and allow a medicaid beneficiary who is enrolled in the MCO's plan to continue to receive services in the qualified nursing facility; and

(ii) Continue to process and pay claims for services in accordance with the contract.

(B) During the review period by the bureau, as described in subdivision (g)(1)(B), the qualified nursing facility shall continue to provide services to an enrolled beneficiary.

(h) This section does not prevent the bureau from enforcing the bureau's provider agreement with a qualified nursing facility or from adopting reasonable and necessary requirements for the participation of a qualified nursing facility in the TennCare program. All requirements for participation adopted after July 1, 2016, shall be promulgated by the bureau as a rule under title 4, chapter 5, part 2, and must include a hearing under § 4-5-203, prior to the enforcement of such requirement as part of any provider contract, unless otherwise required by federal law.

(i) This section does not limit or expand:

(1) The authority of the bureau to terminate a qualified nursing facility medicaid provider agreement under state or federal authority as the medicaid single state agency; or

(2) A qualified nursing facility's right to contest such actions under state or federal law, which includes the appeals process, pursuant to 42 CFR Parts 431 and 498.

SECTION 2. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect July 1, 2026, the public welfare requiring it, and applies to policies, plans, and contracts entered into, renewed, amended, or delivered on or after that date.

House Health 1

Amendment No. 1 to HB2093

Terry
Signature of Sponsor

AMEND Senate Bill No. 1797* House Bill No. 2093

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 71-5-1412, is amended by inserting the following immediately preceding the existing subsection (a) as new subsections (a) and (b), and redesignating the existing subsections (a) and (b) accordingly:

(a) As used in this section:

(1) "Bureau" means the bureau of TennCare;

(2) "Managed care organization" or "MCO" means a health maintenance organization, behavioral health organization, or managed health insurance issuer that has a contract with the bureau and participates in the TennCare program;

(3) "Qualified nursing facility" means a nursing home that is licensed under title 68, chapter 11, part 2, and is certified by the bureau to provide medicaid nursing facility services; and

(4) "Termination":

(A) Means the involuntary removal, exclusion, or non-renewal of a qualified medicaid provider from an MCO's provider network or the medicaid program; and

(B) Does not include the voluntary withdrawal by the qualified medicaid provider.

(b) A managed care organization shall not include a provision in the MCO's contract with a qualified nursing facility to provide medicaid nursing facility services that permit actual or constructive termination by the MCO without cause, for convenience, or

termination without specifying the grounds for termination. In conjunction with the department of commerce and insurance, the bureau shall review and approve all standard contract templates used by MCOs for facility contracting to ensure compliance with this subsection (b).

SECTION 2. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect July 1, 2026, the public welfare requiring it, and applies to policies, plans, and contracts entered into, renewed, amended, or delivered on or after that date.