

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JUNE 18, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Prohibits sale or lease of access to certain dental provider network contracts.

CURRENT VERSION OF TEXT

As amended by the Senate on June 25, 2018.



1 **AN ACT** concerning certain dental provider networks, and
2 supplementing chapter 30 of Title 17B of the New Jersey
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 “Contracting entity” means any person or entity that enters into
10 direct contracts with providers for the delivery of dental treatment
11 services in the ordinary course of business, including a third party
12 administrator as defined by section 1 of P.L.2001, c.267
13 (C.17B:27B-1).

14 “Covered person” means an individual who is covered under a
15 dental benefits or health insurance plan for dental treatment
16 services.

17 “Dental benefits plan” means a benefits plan which pays or
18 provides dental expense benefits for covered services and is
19 delivered or issued for delivery in this State by or through a dental
20 service corporation, dental plan organization, or a carrier either on a
21 stand-alone basis or as part of other coverage including, but not
22 limited to, health benefits.

23 “Dental treatment services” means services for the diagnosis,
24 prevention, treatment, or cure of a dental condition, illness, injury,
25 or disease.

26 “Health insurance plan” means any hospital and medical expense
27 incurred policy, health maintenance organization subscriber
28 contract, or any other health care plan or arrangement that pays for
29 or furnishes medical, dental, or health care services, whether by
30 insurance or otherwise. Health insurance plan shall include a dental
31 benefits plan. “Health insurance plan” shall not include one or
32 more, or any combination of, the following: coverage only for
33 accident, or disability income insurance; coverage issued as a
34 supplement to liability insurance; liability insurance, including
35 general liability insurance and private passenger automobile
36 insurance; workers’ compensation or similar insurance; automobile
37 medical payment insurance; credit-only insurance; coverage for on-
38 site medical clinics; coverage similar to the foregoing as specified
39 in federal regulations issued pursuant to the federal “Health
40 Insurance Portability and Accountability Act of 1996,” P.L.104-
41 191, under which benefits for medical care are secondary or
42 incidental to other insurance benefits; benefits for long-term care,
43 nursing home care, home health care, or community-based care;
44 specified disease or illness coverage, hospital indemnity or other

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 25, 2018.

1 fixed indemnity insurance, or such other similar, limited benefits as
2 are specified in regulations; Medicare supplemental health
3 insurance as defined under section 1882(g)(1) of the federal Social
4 Security Act (42 U.S.C. s.1395ss(g)(1)); coverage supplemental to
5 the coverage provided under chapter 55 of title 10, United States
6 Code (10 U.S.C. s.1071 et seq.); or other similar limited benefit
7 supplemental coverages.

8 "Provider" means an individual or entity which, acting within the
9 scope of its licensure or certification, provides dental treatment
10 services defined by the health insurance or dental benefits plan.
11 Health care provider includes, but is not limited to, a dentist,
12 physician or other health care professionals licensed pursuant to
13 Title 45 of the Revised Statutes acting within the scope of his or her
14 licensure. "Provider" shall not include a physician organization or
15 physician hospital organization that leases or rents the physician
16 organization's or physician hospital organization's network to a
17 third party.

18 "Provider network contract" means a contract between a
19 contracting entity and a provider specifying the rights and
20 responsibilities of the contracting entity and providing for the
21 delivery of and payment for dental treatment services to covered
22 persons.

23 "Third party" means a person or entity that enters into a contract
24 with a contracting entity or with another third party to gain access
25 to a provider network contract.

26
27 2. a. ¹【Unless express written consent is given by the provider at
28 the time the contracting entity seeks to grant third party access】
29 Except as otherwise provided in subsection b. of this section¹, a
30 contracting entity shall not grant to a third party access to:

31 (1) a provider network contract; or
32 (2) a provider's dental treatment services or contractual discounts,
33 or both, pursuant to a provider network contract.

34 b. ¹A contracting entity may grant a third party access to a
35 contract, or services or discounts pursuant to a contract as specified in
36 subsection a. of this section, if the contracting entity delivers a written
37 request to the provider to grant the third party access to that contract
38 and:

39 (1) the provider gives the contracting entity express written
40 consent to grant the third party access to the contract; or

41 (2) 90 days expire from the time the provider receives the written
42 request and the provider does not give the contracting entity an express
43 written denial of consent to grant the third party access to the contract.

44 c. ¹No dentist provider shall be bound by or required to perform
45 dental treatment or services under a provider network contract that has
46 been granted to a third party in violation of this act.

- 1 3. This act shall not apply to:
- 2 a. a provider network contract for dental treatment services
- 3 provided to beneficiaries of the Medicaid program established
- 4 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Medicare
- 5 program established pursuant to the federal Social Security Act, (42
- 6 U.S.C. s.1395 et seq.), the State Health Benefits Program, the
- 7 School Employees' Health Benefits Program, or the NJ FamilyCare
- 8 Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.);
- 9 and
- 10 b. situations in which access to a provider network contract is
- 11 granted to an entity operating under the same brand licensee
- 12 program as the contracting entity.
- 13
- 14 4. a. Any person who violates any provision of this act shall be
- 15 liable to a civil penalty in an amount of not less than \$500, or more
- 16 than \$10,000, for each violation. A penalty shall be collected and
- 17 enforced by a summary proceeding brought by the Commissioner of
- 18 Banking and Insurance pursuant to the provisions of the "Penalty
- 19 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
- 20 b. In addition to any penalty pursuant to subsection a. of this
- 21 section, it shall be an unfair trade practice pursuant to the
- 22 provisions of N.J.S.17B:30-1 et seq. and a violation of that act for
- 23 any person to knowingly access or utilize a provider's contractual
- 24 discount pursuant to a provider network contract in violation of this
- 25 act.
- 26
- 27 5. The Commissioner of Banking and Insurance shall, pursuant
- 28 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
- 29 1 et seq.), adopt rules and regulations necessary to effectuate the
- 30 purpose of this act.
- 31
- 32 6. This act shall take effect on the 90th day next following
- 33 enactment and shall apply to all provider network contracts that are
- 34 delivered, issued, executed or renewed in this State, on or after the
- 35 effective date.