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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

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A N A C T

RELATING TO INSURANCE -- PROVIDER-SPONSORED NETWORKS

Introduced By: Senator Daniel J. Issa

Date Introduced: February 13, 2003

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 27 of the General Laws entitled "Insurance" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 67

4 PROVIDER-SPONSORED NETWORKS

5 27-67-1. Definitions. – As used in this chapter:

6 (1) "Commissioner" means the insurance commissioner.

7 (2) "Constituent providers" means natural or corporate persons who are health care
8 providers licensed by this state, or partnerships or professional service corporations comprised of
9 such licensed health care providers. The services provided by a constituent provider may include
10 the services of appropriately licensed employees.

11 (3) "Contract on a fee-for-service basis" means a contract in which the provider-
12 sponsored network is paid on a fee-for-service or discounted fee-for-service basis, including, but
13 not limited to, benefit payment schedules, global budgeting arrangements, discounted payments
14 based on productivity or utilization review protocols, diagnosis-related groups, payment per
15 episode, or payment based on established case management requirements.

16 (4) "Continuity of care contractual protection" means a contractual undertaking or
17 combination of undertakings by a provider-sponsored network that provides the following in the
18 event the provider-sponsored network is declared insolvent:

19 (a) If under any contract to provide health care services the provider-sponsored network

1 has, as of the date of insolvency, received payment for a period ending sooner than thirty (30)
2 days after the date of insolvency, the provider-sponsored network will offer the purchaser the
3 option of a pro-rated payment to cover care for a period running at least thirty (30) days from the
4 date of insolvency.

5 (b) Each constituent provider shall, for the full period for which payment to the provider-
6 sponsored network has been made, including any pro-rated payment as provided above, agree to
7 continue to provide access to health care services and continuity of service in the same manner
8 and extent to which these services were being provided prior to the declaration of insolvency to
9 all persons on behalf of whom such payments have been made. In addition, patients in an
10 inpatient facility shall be assured care until discharge.

11 (c) All care provided pursuant to continuity of care contractual protection shall be subject
12 to hold harmless contractual protection for the benefit of the patient.

13 (5) “Exempt contract” means a contract entered into by a provider-sponsored network to
14 provide health services which takes one of the following forms:

15 (a) A contract with a self-funded employer in which the employer-sponsored employee
16 benefit plan remains responsible for arranging and providing benefits to employees.

17 (b) A contract under which all health services are furnished directly by constituent
18 providers.

19 (c) A contract in which the health services for which the provider-sponsored network
20 accepts financial risk are solely those furnished by constituent providers.

21 (d) A contract on a fee-for-service basis.

22 (e) Contracts with licensed insurance companies, health maintenance organizations, or
23 medical and hospital service plans.

24 (6) “Hold harmless contractual protection” means an agreement by a provider of health
25 care services that, in the event the provider-sponsored network fails to pay for health care services
26 as set forth in any contract between the health care provider and the provider-sponsored network,
27 the patient shall not be liable to the provider for any sums owed the provider by the provider-
28 sponsored network. No other provisions of any such contract shall, under any circumstances,
29 change the effect of the hold harmless provision. No such provider, or agent, trustee or assignee
30 thereof, may maintain any action at law against a patient to collect sums owed by the provider-
31 sponsored network.

32 (7) “Provider-sponsored network” means an organization that:

33 (a) is owned by one or more constituent providers (as defined in subsection 27-67-1(2));

34 (b) the primary activity of which is the provision of health care services;

1 (c) substantially all of the constituent providers of which participate directly in the
2 furnishing of such health care services;

3 (d) in any contract under which the organization provides health care services, a
4 substantial part of such services are furnished by constituent providers; and

5 (e) in the case of an organization that is organized as a nonprofit corporation, the
6 organization's governing body is selected or appointed by constituent providers and such
7 constituent providers shall be deemed to be the organization's owners for purposes of this
8 subsection.

9 (8) "Uncovered services" means services that are the obligation of the provider-
10 sponsored network but for which a patient may also be liable in the event of the provider-
11 sponsored network's insolvency and for which no arrangement has been made to assure that the
12 patient will not be billed by a provider.

13 **27-67-2. Authorized activities of provider-sponsored networks.** – A provider-
14 sponsored network may enter into contracts for the delivery of health care services, and any
15 activities reasonably related thereto.

16 **27-67-3. Powers of the commissioner -- Procedures for granting of certificate of**
17 **authority -- Insurance laws inapplicable.** – (a) Before entering into any contracts for the sale of
18 health services, a provider-sponsored network must obtain from the commissioner a certificate of
19 authority; provided, however, that no such certificate shall be required for any provider-sponsored
20 network with only exempt contracts.

21 (b) The commissioner shall provide a certificate of authority upon provision by the
22 applicant of reasonable assurances of conformity to the standards set forth in this statute. The
23 commissioner may, upon notice and hearing, revoke a certificate of authority for failure to
24 conform to such standards.

25 (c) The laws of this state relative to insurance companies or to the business of insurance,
26 and acts in amendment thereof or in addition thereto, shall not apply to any provider-sponsored
27 network unless expressly so provided therein.

28 **27-67-4. Fiscally sound operations and plan for insolvency.** – In determining whether
29 a certificate of authority should be granted or continued in effect, the commissioner shall require
30 reasonable assurances from the provider-sponsored network with respect to its operation in a
31 fiscally sound manner and a plan for protecting patients in the event of insolvency. The following
32 shall constitute reasonable assurances:

33 (a) A positive net worth;

34 (b) Continuation of care contractual protection from all constituent providers; and

1 (c) With respect to any uncovered services, a segregated account with a trustee or agent
2 satisfactory to the commissioner, in which account is maintained cash or securities acceptable to
3 the commissioner in an amount equal to one hundred twenty percent (120%) of estimated
4 monthly uncovered services; provided, however, that a provider-sponsored network shall be
5 deemed to be in compliance with this requirement if, in any month during which an initial or
6 additional deposit must be made to said account, a deposit is made in an amount equal to two
7 percent (2%) of the provider-sponsored network's income during that month from all contracts
8 for health services.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO INSURANCE -- PROVIDER-SPONSORED NETWORKS

1 This act would permit provider-sponsored health care networks to contract directly to
2 provide health care services, provided certain conditions are met, without being regulated as
3 insurers.

4 This act would take effect upon passage.

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