# SENATE BILL NO. 331

INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL, STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON, RYE, D. BROWN, SWYSGOOD, ELLIS, GILBERT, FOSTER, KENNEDY, WALLIN, FORRESTER, STANG, SQUIRES, BECK, MCCLERNAN, DOWELL, KLAMPE, PIPINICH, MCCULLOCH, MESAROS, BURNETT, TOEWS, BRUSKI-MAUS, WHALEN, MENAHAN, REA, DRISCOLL, HALLIGAN, FRITZ, DAILY, BLAYLOCK, HARDING, HARRINGTON, MCCARTHY, BOHLINGER, T. NELSON, PAVLOVICH, RUSSELL

#### IN THE SENATE

FEBRUARY 8, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.

FIRST READING.

- FEBRUARY 19, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 20, 1993 PRINTING REPORT.

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SECOND READING, DO PASS.

FEBRUARY 22, 1993 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 46; NOES, 2.

TRANSMITTED TO HOUSE.

# IN THE HOUSE

FEBRUARY 23, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

- MARCH 11, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
- MARCH 13, 1993 SECOND READING, CONCURRED IN.
- MARCH 16, 1993 THIRD READING, CONCURRED IN. AYES, 95; NOES, 4.

RETURNED TO SENATE.

IN THE SENATE

# MARCH 18, 1993

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RECEIVED FROM HOUSE. SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 0442/01

ento BILL NO. 33 1 INTRODUCED BY 2 3 4 5 GREEMENTS HEALTH CARE ROVIDER 6 alen Nens 71'A CHAPTER/ 7 TERA RED PROVIDER AGREERE Mare S. AMENDING THE EFFECTIVE DATE CHAPTER Q. SECTION 33-22-1704, MCA; REPEALING SECTION 3, CHAPTER 714, 10 LAWS OF 1991; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND 11 A RETROACTIVE APPLICABILITY DATE." 12

13

Chapter 714, Laws of 1991, amended the WHEREAS, 14 Preferred Provider Agreements Act to require that health 15 care insurers enter into preferred provider agreements with 16 all providers wishing to offer health care services under 17 the preferred provider agreement; and 18

WHEREAS, the original purpose of Chapter 714, Laws of 19 1991, was to apply the requirement concerning willing 20 providers to all existing and new preferred provider 21 agreements covered by Chapter 714; and 22

WHEREAS, the District Court of the First Judicial 23 District held in Saint Vincent Hospital and Health Center, 24 Inc. v. Blue Cross and Blue Shield of Montana, Inc., Cause 25



No. CDV 91-1940 (decided September 9, 1992), that Chapter 1 714, Laws of 1991, does not apply to preferred provider 2 agreements in effect on the effective date of Chapter 714; З and

WHEREAS, it is the intention of the Legislature, inter alia, to enact curative legislation to make clear its original intent that Chapter 714, Laws of 1991, applies to preferred provider agreements entered into before the effective date of Chapter 714.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11

12 Section 1. Section 33-22-1704, MCA, is amended to read:

13 "33-22-1704. (Temporary)-Preferred provider agreements 14 authorized. (1) Notwithstanding any other provision of law 15 to the contrary, a health care insurer may:

16 (a) enter into agreements with providers relating to 17 health care services that may be rendered to insureds or subscribers on whose behalf the health care insurer is 18 providing health care coverage, including preferred provider 19 20 agreements relating to:

21 (i) the amounts an insured may be charged for services 22 rendered; and

23 (ii) the amount and manner of payment to the provider: 24 and

25 (b) issue or administer policies or subscriber

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INTRODUCED BILL

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contracts in this state that include incentives for the
 insured to use the services of a provider that has entered
 into an agreement with the insurer pursuant to subsection
 (1)(a).

5 (2) A health care insurer shall establish terms and 6 conditions to be met by providers wishing to enter into an 7 agreement with the health care insurer under subsection (1)(a). These terms and conditions may not discriminate 8 against or among providers. For the purposes of this 9 subsection, price differences among hospitals or other 10 institutional providers produced by a process of individual 11 12 negotiation or by price differences among different 13 geographical areas or different specialties do not constitute discrimination. A health care insurer may not 14 deny a provider the right to enter into an agreement under 15 16 subsection (1)(a) if the provider is willing to meet the 17 terms and conditions established in that agreement.

(3) A provider may review the terms and conditions of 18 an agreement by requesting a copy of the agreement from the 19 insurer. The insurer shall provide a copy of an agreement 20 21 within 30 days of a request and may charge the provider for the actual cost of providing the copy. If the provider 22 23 elects not to enter into an agreement, it shall return the 24 agreement to the insurer and may not disclose the terms and 25 conditions of the returned agreement to another provider or LC 0442/01

#### 1 other person.

t3)(4) A preferred provider agreement issued or
 delivered in this state may not unfairly deny health
 benefits for health care services covered. (Terminates--July
 ±7-±993--sec--37-Ch--7±47-b--±99±++

6 7 agreements---authorized----(1)---Notwithstanding--any--other 8 provision-of-law-to-the-contrary,-a-health-care-insurer-may; 9 (a)--enter-into-agreements-with--providers--relating--to health--care--services--that--may-be-rendered-to-insureds-or 10 11 subscribers-on-whose--behalf--the--health--care--insurer--is 12 providing-health-care-coverage;-including-preferred-provider 13 agreements-relating-to: 14 tit--the--amounts-an-insured-may-be-charged-for-services 15 rendered;-and 16 (ii)-the-amount-and-manner-of-payment-to--the--provider; 17 and 18 tb;--issue---or---administer---policies---or--subscriber 19 contracts-in-this-state--that--include--incentives--for--the 20 insured--to--use-the-services-of-a-provider-that-has-entered 21 into-an-agreement-with-the-insurer--pursuant--to--subsection 22 tittat= 23 (2)--A--preferred-provider-agreement-issued-or-delivered 24 in-this-state-may-not--unfairly--deny--health--benefits--for

25 health-care-services-covered.

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(3)--This---part---does--not--require--that--an--insurer
 negotiate--or--enter--into--agreements--with--any---specific
 provider-or-class-of-providers:"
 <u>NEW SECTION.</u> Section 2. Retroactive applicability.
 [Section 2(3) and this section] and Chapter 714, Laws of
 1991, apply retroactively, within the meaning of 1-2-109, to

all preferred provider agreements entered into prior to [the
effective date of this act].

9 <u>NEW SECTION.</u> Section 3. Repealer. Section 3, Chapter
10 714, Laws of 1991, is repealed.

11 NEW SECTION. Section 4. Effective date. [This act] is

12 effective on passage and approval.

-End-

## APPROVED BY COMM. ON BUSINESS & INDUSTRY

1	SENATE BILL NO. 331
2	INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,
3	STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON,
4	RYE, D. BROWN, SWYSGOOD, ELLIS, GILBERT, FOSTER, KENNEDY, WALLIN
5	FORRESTER, STANG, SQUIRES, BECK, MCCLERNAN, DOWELL, KLAMPE,
6	PIPINICH, MCCULLOCH, MESAROS, BURNETT, TOEWS, BRUSKI-MAUS,
7	WHALEN, MENAHAN, REA, DRISCOLL, HALLIGAN, FRITZ, DAILY,
8	BLAYLOCK, HARDING, HARRINGTON, MCCARTHY, BOHLINGER,
9	T. NELSON, PAVLOVICH, RUSSELL
10	
11	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
12	PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING-FORREVIEWOF
13	PREPERREDPROVIDERAGREEMENTSBYHEALTHCARE-PROVIDERS;
14	PROVIDINGTHATCHAPTER7147LAWSOF19917APPLIES
15	Retroactivelytoall-preferred-provider-agreements-entered
16	INTO-BEFORE-THE-EFFECTIVE-BATE-OF-CHAPTER-714; PROVIDING FOR
17	COMPETITION IN AWARDING PREFERRED PROVIDER AGREEMENTS;
18	AMENDING SECTION 33-22-1704, MCA; REPEALINGSECTION37
19	CHAPTER7147LAWSOF19917 AND PROVIDING AN IMMEDIATE
20	EFFECTIVE DATE AND-A-RETROACTIVE-APPLICABILITY-DATE."
21	
22	WHEREAS,Chapter714,Bawsof1991,amendedthe
23	PreferredProviderAgreementsActto-require-that-health
24	care-insurers-enter-into-preferred-provider-agreementswith
25	allproviderswishingto-offer-health-care-services-under

l	the-preferred-provider-agreement;-and
2	WHEREAS,-the-original-purpose-of-Chapter714,bawsof
3	19917wastoapplytherequirementconcerningwilling
4	providerstoallexistingandnewpreferredprovider
5	agreements-covered-by-Chapter-714;-and
6	WHEREAS,theDistrictCourtofthePirstJudiciał
7	District-held-in <u>Saint-Vincent-Hospital-andHealthCentery</u>
8	IncBlue-Cross-and-Blue-Shield-of-Montanay-IncCause
9	NoCBV-91-1940-{decided-September-971992}77thatChapter
10	7147bawsof19917doesnot-apply-to-preferred-provider
11	agreements-in-effect-on-the-effective-date-ofChapter714;
12	and
13	WHEREAS,itis-the-intention-of-the-begislature,-inter
14	aliatoenactcurativelegislationtomakeclearits
15	originalintentthat-Chapter-7147-baws-of-19917-applies-to
16	preferredprovideragreementsenteredintobeforethe
17	effective-date-of-Chapter-714
18	
19	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20	Section-1Section-33-22-17047-MCA7-is-amended-to-read:
21	"33-32-1704(Temporary)Preferred-provider-agreements
22	authorized{1}-Notwithstanding-any-other-provisionoflaw
23	to-the-contrary;-a-health-care-insurer-may;
24	<pre>ta)enterintoagreementswith-providers-relating-to</pre>

25 health-care-services-that-may-be--rendered--to--insureds--or

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SECOND READING

1	subscribersonwhosebehalfthehealthcare-insurer-is
2	providing-health-care-coverage;-including-preferred-provider
3	agreements-relating-to:
4	titthe-amounts-an-insured-may-be-charged-forservices
5	rendered;-and
6	{ii}-theamountand-manner-of-payment-to-the-provider;
7	and
8	<pre>tb;issueoradministerpoliciesorsubscriber</pre>
9	contractsinthisstatethatinclude-incentives-for-the
10	insured-to-use-the-services-of-a-provider-thathasentered
11	intoanagreementwith-the-insurer-pursuant-to-subsection
12	t=t=t=t=t
13	<del>(2)A-health-care-insurershallestablishtermsand</del>
14	conditionstobe-met-by-providers-wishing-to-enter-into-an
15	agreement-with-thehealthcareinsurerundersubsection
16	(1)(a)Thesetermsandconditionsmay-not-discriminate
17	againstoramongprovidersPorthepurposesofthis
18	subsection7pricedifferencesamonghospitalsorother
19	institutional-providers-produced-by-a-process-ofindividual
20	negotiationorbypricedifferencesamongdifferent
21	geographicalareasordifferentspecialtiesdonot
22	constitutediscriminationAhealthcare-insurer-may-not
23	deny-a-provider-the-right-to-enter-into-anagreementunder
24	subsection{1}{a}iftheprovider-is-willing-to-meet-the
25	terms-and-conditions-established-in-that-agreement.

<u>(3)A-provider-may-review-the-terms-andconditionsof</u> <u>anagreement-by-requesting-a-copy-of-the-agreement-from-the</u>
anagreement-by-requesting-a-copy-of-the-agreement-from-the
insurerThe-insurer-shall-provide-a-copyofanagreement
within30-days-of-a-request-and-may-charge-the-provider-for
the-actual-cost-ofprovidingthecopyIftheprovider
electsnotto-enter-into-an-agreement;-it-shall-return-the
agreement-to-the-insurer-and-may-not-disclose-the-termsand
conditionsof-the-returned-agreement-to-another-provider-or
other-person.
t3) <u>t4)</u> Apreferredprovideragreementissuedor
deliveredinthisstatemaynotunfairlydenyhealth
benefitsfor-health-care-services-covered(Terminates-July
17-1993sec37-Ch7147-b1991-;
33-22-1704(Effective-July-1,-1993)-Preferred-provider
agreementsauthorized(1)Notwithstandinganyother
provision-of-law-to-the-contrary7-a-health-care-insurer-may;
<pre>{a}enterintoagreementswith-providers-relating-to</pre>
health-care-services-that-may-berenderedtoinsuredsor
subscribersonwhosebehalfthehealthcare-insurer-is
providing-health-care-coverage;-including-preferred-provider
agreements-relating-to;
<pre>ti)the-amounts-an-insured-may-be-charged-forservices</pre>
rendered;-and
(ii)-theamountand-manner-of-payment-to-the-provider;
and

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1	<pre>tb)issueoradministerpoliciesorsubscriber</pre>
2	contractsinthisstatethatinclude-incentives-for-the
3	insured-to-use-the-services-of-a-provider-thathasentered
4	intoanagreementwith-the-insurer-pursuant-to-subsection
5	<del>(1)(a).</del>
6	{2}A-preferred-provider-agreement-issued-ordelivered
7	inthisstatemaynotunfairly-deny-health-benefits-for
8	health-care-services-covered-
9	<pre>t3;Thispartdocsnotrequirethataninsurer</pre>
10	negotiateorenterintoagreementswithanyapecific
11	provider-or-class-of-providers."
12	NEW-SECTIONSection-2Retroactiveapplicability-
13	{Bection-2{3}-and-this-section}-and-Chapter7147bawsof
14	19917-apply-retroactively7-within-the-meaning-of-1-2-1097-to
15	all-preferred-provider-agreements-entered-into-prior-to-fthe
16	effective-date-of-this-act}.
17	NEW-SECTIONSection-3RepeaterSection37-Chapter
18	7147-baws-of-19917-is-repealed:
19	SECTION 1. SECTION 33-22-1704, MCA, IS AMENDED TO READ:
20	"33-22-1704. (Temporary) Preferred provider agreements
21	authorized. (1) Notwithstanding any other provision of law
22	to the contrary, a health care insurer may:
23	(a) enter into agreements with providers relating to
24	health care services that may be rendered to insureds or

providing health care coverage, including preferred provider
 agreements relating to:
 (i) the amounts an insured may be charged for services
 rendered; and

5 (ii) the amount and manner of payment to the provider;6 and

7 (b) issue or administer policies or subscriber 8 contracts in this state that include incentives for the 9 insured to use the services of a provider that has entered 10 into an agreement with the insurer pursuant to subsection 11 (1)(a).

(2) A--health--care--insurer--shall-establish-terms-and 12 13 conditions-to-be-met-by-providers-wishing-to-enter--into--an agreement--with--the--health--care--insurer-under-subsection 14 (1)(a);-These-terms--and--conditions--may--not--discriminate 15 16 against--or--among--providers---Por--the--purposes--of--this subsection;--price--differences--among--hospitals--or--other 17 institutional--providers-produced-by-a-process-of-individual 18 19 negotiation--or--by--price---differences---among---different geographical---areas---or---different---specialtics--do--not 20 constitute-discrimination-A-health--care--insurer--may--not 21 deny--a--provider-the-right-to-enter-into-an-agreement-under 22 subsection-(1)(a)-if-the-provider-is--willing--to--meet--the 23 terms-and-conditions-established-in-that-agreement. 24 25 (3) A preferred provider agreement issued or delivered

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subscribers on whose behalf the health care insurer is

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1 in this state may not unfairly deny health benefits for 2 health care services covered. 3 (3) A preferred provider agreement entered into or 4 renewed after [the effective date of this act] must provide 5 each health care provider with the opportunity to 6 participate on the basis of a competitive bid or offer. For 7 each health care service that an insurer proposes to obtain for its insureds from a preferred provider in the geographic 8 9 area covered by the proposal, the insurer shall provide all 10 known providers of the health care service in that area with 11 an equal opportunity to submit a competitive bid or offer to 12 become a preferred provider. Except as provided in 13 subsection (5), the insurer shall issue a request for 14 proposals and shall select the lowest cost bid or offer. If 15 only one bid or offer is received, the insurer may enter 16 into a preferred provider agreement with the health care 17 provider. 18 (4) If a bid or an offer is not received in response to 19 a request for proposals under subsection (3), the insurer 20 may not establish a preferred provider agreement for that 21 service in the geographic area except pursuant to a new 22 request for proposals. 23 (5) An insurer may reserve the right in its request for 24 proposals to reject bids or offers submitted in response to 25 the request, including the lowest cost bid or offer. A bid

٦ or offer must be rejected in the manner established in the 2 request for proposals. An insurer may not enter into a 3 preferred provider agreement for a health care service except pursuant to a request for proposals. (Terminates July 4 5 1, 1993--sec. 3, Ch. 714, L. 1991.) 6 33-22-1704. (Effective July 1, 1993) Preferred provider 7 agreements authorized. (1) Notwithstanding any other 8 provision of law to the contrary, a health care insurer may: 9 (a) enter into agreements with providers relating to 10 health care services that may be rendered to insureds or 11 subscribers on whose behalf the health care insurer is 12 providing health care coverage, including preferred provider 13 agreements relating to: 14 (i) the amounts an insured may be charged for services 15 rendered; and 16 (ii) the amount and manner of payment to the provider; 17 and 18 (b) issue or administer policies or subscriber 19 contracts in this state that include incentives for the 20 insured to use the services of a provider that has entered 21 into an agreement with the insurer pursuant to subsection 22 (1)(a). 23 (2) A preferred provider agreement issued or delivered 24 in this state may not unfairly deny health benefits for 25 health care services covered.

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1 (3) This--part--does--not--require--that---an---insurer 2 negotiate---or--enter--into--agreements--with--any--specific 3 provider--or--class--of--providers. A preferred provider 4 agreement entered into or renewed after [the effective date 5 of this act] must provide each health care provider with the 6 opportunity to participate on the basis of a competitive bid 7 or offer. For each health care service that an insurer 8 proposes to obtain for its insureds from a preferred 9 provider in the geographic area covered by the proposal, the 10 insurer shall provide all known providers of the health care 11 service in that area with an equal opportunity to submit a competitive bid or offer to become a preferred provider. 12 13 Except as provided in subsection (5), the insurer shall 14 issue a request for proposals and shall select the lowest 15 cost bid or offer. If only one bid or offer is received, the insurer may enter into a preferred provider agreement with 16 the health care provider. 17 18 (4) If a bid or an offer is not received in response to 19 a request for proposals under subsection (3), the insurer 20 may not establish a preferred provider agreement for that 21 service in the geographic area except pursuant to a new 22 request for proposals. 23 (5). An insurer may reserve the right in its request for 24 proposals to reject bids or offers submitted in response to 25 the request, including the lowest cost bid or offer. A bid

- 1 or offer must be rejected in the manner established in the
- 2 request for proposals. An insurer may not enter into a
- 3 preferred provider agreement for a health care service
- 4 except pursuant to a request for proposals."
- 5 <u>NEW SECTION.</u> Section 2. Effective date. [This act] is
- 6 effective on passage and approval.

#### -End-

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SB 331

SB 0331/02

	-		
1	SENATE BILL NO. 331	1	the-preferred-provider-agreement;-and
2	INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,	2	WHEREAS,-the-original-purpose-of-Chapter714,bawsof
3	STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON,	3	19917wastoapplytherequirementconcerningwilling
4	RYE, D. BROWN, SWYSGOOD, ELLIS, GILBERT, FOSTER, KENNEDY, WALLIN	4	providerstoallexistingandnewpreferredprovider
5	FORRESTER, STANG, SQUIRES, BECK, MCCLERNAN, DOWELL, KLAMPE,	5	agreements-covered-by-Chapter-7147-and
6	PIPINICH, MCCULLOCH, MESAROS, BURNETT, TOEWS, BRUSKI-MAUS,	6	WHEREAS;theDistrictCourtofthePirstJudicial
7	WHALEN, MENAHAN, REA, DRISCOLL, HALLIGAN, FRITZ, DAILY,	7	Bistrict-held-in Saint-Vincent-Hospital-andHealthCentery
8	BLAYLOCK, HARDING, HARRINGTON, MCCARTHY, BOHLINGER,	8	IncVBiue-Cross-and-Biue-Shield-of-Montanay-Inc-y-Cause
9	T. NELSON, PAVLOVICH, RUSSELL	9	Nov-CDV-91-1948-(decided-September-971992)7thatChapter
10		10	7147bawsof19917doesnot-apply-to-preferred-provider
11	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE	11	agreements-in-effect-on-the-effective-date-ofChapter7147
12	PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING-PORREVIEWOP	12	and
13	<del>PREFERRED</del> PROVIDERAGREEMENTSBYHEALTHCARE-PROVIDERS7	13	WHEREAS,itis-the-intention-of-the-begislature,-inter
14	ProvidingThatChapter7147bawsOP19917AppLies	14	aliay-toenactcurativelegislationtomakeclearits
15	Retroactivelytoall-preperred-provider-agreements-entered	15	originalintentthat-Chapter-7147-baws-of-19917-applies-to
16	INTO-BEFORE-THE-EFFECTIVE-DATE-OF-CHAPTER-7147 PROVIDING FOR	16	preferredprovideragreementsenteredintobeforethe
17	COMPETITION IN AWARDING PREFERRED PROVIDER AGREEMENTS;	17	effective-date-of-Chapter-714
18	AMENDING SECTION 33-22-1704, NCA; REFEALINGBECTION37	18	
19	CHAPTER7147LAWSOF19917 AND PROVIDING AN IMMEDIATE		
20	EFFECTIVE DATE AND-A-RETROACTIVE-APPLICABILITY-DATE."		
21			
22	WHEREAS7Chapter7147baws-of19917amendedthe		TUPDE ADE NO CHANCES IN THIS BILL
23	PreferredProviderAgreementaActto-require-that-health		THERE ARE NO CHANGES IN THIS BILL AND WILL NOT BE REPRINTED. PLEASE
24	care-insurers-enter-into-preferred-provider-agreementswith		REFER TO YELLOW COPY FOR COMPLETE TEXT.
25	allproviderswishingto-offer-health-care-services-under		

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THIRD READING

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1	SENATE BILL NO. 331	1	the-preferred-provider-agreement;-and
2	INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,	2	WHEREASy-the-original-purpose-of-Chapter714yLewsof
3	STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON,	3	19917wastoapplytherequirementconcerningwilling
4	RYE, D. BROWN, SWYSGOOD, ELLIS, GILBERT, FOSTER, KENNEDY, WALLIN	4	providerstoallexistingandnewpreferredprovider
5	FORRESTER, STANG, SQUIRES, BECK, MCCLERNAN, DOWELL, KLAMPE,	5	agreements-covered-by-Chapter-714;-and
6	PIPINICH, MCCULLOCH, MESAROS, BURNETT, TOEWS, BRUSKI-MAUS,	6	WHERBASytheDistrictCourtofthePirstJudicial
7	WHALEN, MENAHAN, REA, DRISCOLL, HALLIGAN, PRITZ, DAILY,	7	Bistrict-held-in <u>Baint-Vincent-Hospital-andHealthCentery</u>
8	BLAYLOCK, HARDING, HARRINGTON, MCCARTHY, BOHLINGER,	8	IncrvrBlue-Gross-and-Blue-Shield-of-Montana;-Incr;-Gause
9	T. NELSON, PAVLOVICH, RUSSELL	9	Nor-CBV-91-1940-(decided-September-9,1992),thatChapter
10		10	7147bawsof19917doesnot-apply-to-preferred-provider
11	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE	11	agreements-in-effect-on-the-effective-date-ofChapter714;
12	PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING-PORREVIEWOP	12	and
13	PRBPBRRBDPROVIDERAGREENENTSBYHEALTHCARE-PROVIDERS;	13	WHERBASyitis-the-intention-of-the-begislaturey-inter
14	provibingThapChapter7147LawsOP19917AppLies	14	aliay-toenactcurativelegislationtomakeclearits
15	Retroactivelytoall-proferred-provider-agreements-entered	15	originalintentthat-Chapter-7147-baws-of-19917-applies-to
16	INTO-BEFORE-THE-EFFECTIVE-BATE-OF-CHAPTER-7147 PROVIDING FOR	16	preferredprovideragreementsenteredintobeforethe
17	COMPETITION IN AWARDING PREPERRED PROVIDER AGREEMENTS;	17	effective-date-of-Chapter-714
18	AMENDING SECTION 33-22-1704; NCA; REPEALINGSECTION3;	18	
19	CHAPTER7147LAWSOP1991; AND PROVIDING AN IMMEDIATE	19	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20	EFFECTIVE DATE AND-A-RETROACTIVE-APPLICADILITY-DATE."	20	Bection-1:Bection-33-22-1704;-MCA;-is-amended-to-read:
21		21	#33-22-1704;{Temporary}Preferred-provider-agreements
22	WHBREASyChapter714ybawsof1991yamendedthe	22	authorized
23	PreferredProviderAgreementsActto-require-that-heaith	23	to-the-contrary;-a-health-care-insurer-may;
24	care-insurers-enter-into-preferred-provider-agreementswith	24	ta)enterintoagreementswith-providers-relating-to
25	allproviderswishingto-offer-health-care-services-under	25	health-care-services-that-may-berenderedtoinsuredsor



REFERENCE BILL

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1

2	providing-health-care-coverageincluding-preferred-provider
3	agreements-relating-to:
4	ti)the-amounts-an-insured-may-be-charged-forservices
5	rendered;-and
6	(ii)-theamountand-manner-of-payment-to-the-provider;
7	and
8	<pre>tb)issueoradministerpoliciesorsubscriber</pre>
9	contractsinthisstatethatinclude-incentives-for-the
10	insured-to-use-the-scrvices-of-a-provider-thathasentered
11	intoanagreementwith-the-insurer-pursuant-to-subsection
12	f3)t4;
13	<del>{?}A-health-care-insurershallestablishterms-</del> -and
14	conditionstobe-met-by-providers-wishing-to-enter-into-an
15	agreement-with-thehealthcareinsurerundersubsection
16	<pre>title&gt;Thesetermsandconditionsmay-not-discriminate</pre>
17	againstoramongprovidersPorthepurposesofthis
18	subsectionpricedifferencesamonghospitalsorother
19	institutional-providers-produced-by-a-process-ofindividual
20	negotiationorbypricedifferencesamongdifferent
21	geographicalareasordifferentspecialtiesdonot
22	constitutediscriminationAhealthcare-insurer-may-not
23	deny-a-provider-the-right-to-enter-into-anagreementunder
24	subsection{l}{a}iftheprovider-is-willing-to-meet-the
25	terms-and-conditions-established-in-that-agreement-

aubscribers--on--whose--behalf--the--bealth--care-insurer-is

1

2 an--agreement-by-requesting-a-copy-of-the-agreement-from-the insurer-The-insurer-shall-provide-a-copy-of--an--agreement 3 within--30-days-of-a-request-and-may-charge-the-provider-for 4 the-actual-cost-of--providing--the--copy---if--the--provider 5 6 elects--not--to-enter-into-an-agreementy-it-shall-return-the 7 agreement-to-the-insurer-and-may-not-disclose-the-terms--and conditions--of-the-returned-agreement-to-another-provider-or 8 9 other-person. 30 (3)(4) A--preferred--provider---agreement---issued---or 11 delivered--in--this--state--may--not--unfairly--deny--health benefits--for-health-care-services-covered.-fferminates-July 12 13 17-1993--sec--37-Ch--7147-6--1991-) 14 33-22-1704---- (Bffeetive-July-1-1993)-Preferred-provider 15 agreements--authorized.---(1)---Notwithstanding---any---other provision-of-law-to-the-contrary,-a-health-care-insurer-may: 16 17 ta}--enter--into--sgreements--with-providers-relating-to 18 health-care-services-that-may-be--rendered--to--insureds--or 19 subscribers--on--whose--behalf--the--health--care-insurer-is 20 providing-health-care-coverage,-including-preferred-provider 21 agreements-relating-to-22 tit--the-amounts-an-insured-may-be-charged-for--services 23 rendered;-and 24 tii)-the--amount--and-manner-of-payment-to-the-provider; 25 and

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(3)--A-provider-may-review-the-terms-and--conditions--of

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2

1	tb)issueoradministerpoliciesorsubscriber
2	contractsinthisstatethatinclude-incentives-for-the
3	insured-to-use-the-services-of-a-provider-thathasentered
4	intoanagreementwith-the-insurer-pursuant-to-subsection
5	tl)ta)=
6	<pre>{2}A-preferred-provider-agreement-issued-ordelivered</pre>
7	inthisstatemaynotunfairly-deny-health-benefits-for
8	health-care-services-covered.
9	<del>(3)Thispartdoesnotrequirethataninsurer</del>
10	negotiateorenterintoagreementswithanyspecific
11	provider-or-class-of-providers."
12	NEW-SBCTIONSection-2Retroactiveapplicability-
13	{Bection-2{3}-and-this-section}-andChapter714ybawsof
14	1991,-apply-retroactively,-within-the-meaning-of-1-2-109,-to
15	all-preferred-provider-agreements-entered-into-prior-to-fthe
16	effective-date-of-this-act}.
17	NEW-SECTIOnSection-3,RepeaterSection3,-Chapter
18	7±47-baws-of-19917-is-repeated.
19	SECTION 1. SECTION 33-22-1704, MCA, IS AMENDED TO READ:
20	"33-22-1704. (Temporary) Preferred provider agreements
21	authorized. (1) Notwithstanding any other provision of law
22	to the contrary, a health care insurer may:
23	(a) enter into agreements with providers relating to
24	health care services that may be rendered to insureds or

subscribers on whose behalf the health care insurer is

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providing health care coverage, including preferred provider agreements relating to:

3 (1) the amounts an insured may be charged for services
4 rendered; and

5 (ii) the amount and manner of payment to the provider;6 and

7 (b) issue or administer policies or subscriber 8 contracts in this state that include incentives for the 9 insured to use the services of a provider that has entered 10 into an agreement with the insurer pursuant to subsection 11 (1)(a).

12 (2) A--health--care--insurer--shall-establish-terms-and 13 conditions-to-be-met-by-providers-wishing-to-enter--into--an 14 agreement--with--the--health--care--insurer-under-subsection ti)ta):-These-terms--and--conditions--may--not--discriminate 15 16 against--or--among--providers;--For--the--purposes--of--this 17 subsectiony--price--differences--among--hospitals--or--other institutional--providers-produced-by-a-process-of-individual 18 negotiation--or--by--price---differences---among---different 19 20 geographical---areas---or---different---specialties--do--not 21 constitute-discrimination--A-health--care--insurer--may--not 22 deny--a--provider-the-right-to-enter-into-an-agreement-under 23 subsection-fl)fa)-if-the-provider-is--willing--to--meet--the 24 terms-and-conditions-established-in-that-agreement. 25 (3) A preferred provider agreement issued or delivered

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1	in this state may not unfairly deny health benefits for
2	health care services covered.
3	(3) A preferred provider agreement entered into or
4	renewed after [the effective date of this act] must provide
5	each health care provider with the opportunity to
6	participate on the basis of a competitive bid or offer. For
7	each health care service that an insurer proposes to obtain
8	for its insureds from a preferred provider in the geographic
9	area covered by the proposal, the insurer shall provide all
10	known providers of the health care service in that area with
11	an equal opportunity to submit a competitive bid or offer to
12	become a preferred provider. Except as provided in
13	subsection (5), the insurer shall issue a request for
14	proposals and shall select the lowest cost bid or offer. If
15	only one bid or offer is received, the insurer may enter
16	into a preferred provider agreement with the health care
17	provider.
18	(4) If a bid or an offer is not received in response to
19	a request for proposals under subsection (3), the insurer
20	may not establish a preferred provider agreement for that
21	service in the geographic area except pursuant to a new
22	request for proposals.
23	(5) An insurer may reserve the right in its request for
24	proposals to reject bids or offers submitted in response to
25	the request, including the lowest cost bid or offer. A bid
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1	or offer must be rejected in the manner established in the
2	request for proposals. An insurer may not enter into a
3	preferred provider agreement for a health care service
4	except pursuant to a request for proposals. (Terminates July
5	1, 1993sec. 3, Ch. 714, L. 1991.)
6	33-22-1704. (Effective July 1, 1993) Preferred provider
7	agreements authorized. (1) Notwithstanding any other
8	provision of law to the contrary, a health care insurer may:
9	(a) enter into agreements with providers relating to
10	health care services that may be rendered to insureds or
11	subscribers on whose behalf the health care insurer is
12	providing health care coverage, including preferred provider
13	agreements relating to:
14	(i) the amounts an insured may be charged for services
15	rendered; and
16	(ii) the amount and manner of payment to the provider;
17	and
18	(b) issue or administer policies or subscriber
19	contracts in this state that include incentives for the
20	insured to use the services of a provider that has entered
21	into an agreement with the insurer pursuant to subsection
22	(1)(a).
23	(2) A preferred provider agreement issued or delivered
24	in this state may not unfairly deny health benefits for
25	health care services covered.

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1	(3) Thispartdoesnotrequirethataninsurer
2	negotisteorenterintoagreementswithanyspecific
3	provider-orclassofproviders, A preferred provider
4	agreement entered into or renewed after [the effective date
5	of this act] must provide each health care provider with the
6	opportunity to participate on the basis of a competitive bid
7	or offer. For each health care service that an insurer
8	proposes to obtain for its insureds from a preferred
9	provider in the geographic area covered by the proposal, the
10	insurer shall provide all known providers of the health care
11	service in that area with an equal opportunity to submit a
12	competitive bid or offer to become a preferred provider.
13	Except as provided in subsection (5), the insurer shall
14	issue a request for proposals and shall select the lowest
15	cost bid or offer. If only one bid or offer is received, the
16	insurer may enter into a preferred provider agreement with
17	the health care provider.
18	(4) If a bid or an offer is not received in response to
19	a request for proposals under subsection (3), the insurer
20	may not establish a preferred provider agreement for that
21	service in the geographic area except pursuant to a new
22	request for proposals.
23	(5) An insurer may reserve the right in its request for
24	proposals to reject bids or offers submitted in response to
25	the request, including the lowest cost bid or offer. A bid
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- 1 or offer must be rejected in the manner established in the
- 2 request for proposals. An insurer may not enter into a
- 3 preferred provider agreement for a health care service
- 4 except pursuant to a request for proposals."
- 5 NEW SECTION. Section 2. Effective date. [This act] is
- 6 effective on passage and approval.

-End-