

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.
	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

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *331*
 2 INTRODUCED BY *Lynch, Crippin, Yellowtail, Galt*
 3 *Wilson, Bandy, NATH, M. Hawley, P. J. Davis, Bandy*
 4 A BILL FOR AN ACT ENTITLED: *AN ACT CLARIFYING THE*
 5 *PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING FOR REVIEW OF*
 6 *PREFERRED PROVIDER AGREEMENTS BY HEALTH CARE PROVIDERS;*
 7 *PROVIDING THAT CHAPTER 714, LAWS OF 1991, APPLIES*
 8 *RETROACTIVELY TO ALL PREFERRED PROVIDER AGREEMENTS ENTERED*
 9 *INTO BEFORE THE EFFECTIVE DATE OF CHAPTER 714; AMENDING*

10 SECTION 33-22-1704, MCA; REPEALING SECTION 3, CHAPTER 714,
 11 LAWS OF 1991; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
 12 A RETROACTIVE APPLICABILITY DATE."

13
 14 WHEREAS, Chapter 714, Laws of 1991, amended the
 15 Preferred Provider Agreements Act to require that health
 16 care insurers enter into preferred provider agreements with
 17 all providers wishing to offer health care services under
 18 the preferred provider agreement; and

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

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

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

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

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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
 18 subscribers on whose behalf the health care insurer is
 19 providing health care coverage, including preferred provider
 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

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).

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

(3) A provider may review the terms and conditions of an agreement by requesting a copy of the agreement from the insurer. The insurer shall provide a copy of an agreement within 30 days of a request and may charge the provider for the actual cost of providing the copy. If the provider elects not to enter into an agreement, it shall return the agreement to the insurer and may not disclose the terms and conditions of the returned agreement to another provider or

other person.

~~{3}(4) A preferred provider agreement issued or delivered in this state may not unfairly deny health benefits for health care services covered. {Terminates--July 17-1993--sec-37-Ch-7147-B-19917}~~

~~33-22-17047--{Effective-July-17-1993}-Preferred-provider agreements---authorized---{1}---Notwithstanding--any--other provision-of-law-to-the-contrary,--a-health-care-insurer-may-~~

~~{a}--enter-into-agreements-with--providers--relating--to health--care--services--that--may-be-rendered-to-insureds-or subscribers-on-whose--behalf--the--health--care--insurer--is providing-health-care-coverage,--including-preferred-provider agreements-relating-to-~~

~~{i}--the--amounts-an-insured-may-be-charged-for-services rendered,--and~~

~~{ii}--the-amount-and-manner-of-payment-to--the--provider, and~~

~~{b}--issue---or---administer---policies---or---subscriber 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}:-~~

~~{2}--A--preferred-provider-agreement-issued-or-delivered in-this-state-may-not--unfairly--deny--health--benefits--for health-care-services-covered-~~

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."~~

4 NEW SECTION. **Section 2.** Retroactive applicability.
5 [Section 2(3) and this section] and Chapter 714, Laws of
6 1991, apply retroactively, within the meaning of 1-2-109, to
7 all preferred provider agreements entered into prior to [the
8 effective date of this act].

9 NEW SECTION. **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

SENATE BILL NO. 331

INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,
STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON,
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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING FOR REVIEW OF
PREFERRED PROVIDER AGREEMENTS BY HEALTH CARE PROVIDERS;
PROVIDING THAT CHAPTER 714, LAWS OF 1991 APPLIES
RETROACTIVELY TO ALL PREFERRED PROVIDER AGREEMENTS ENTERED
INTO BEFORE THE EFFECTIVE DATE OF CHAPTER 714; PROVIDING FOR
COMPETITION IN AWARDING PREFERRED PROVIDER AGREEMENTS;
AMENDING SECTION 33-22-1704, MCA; REPEALING SECTION 37
CHAPTER 714, LAWS OF 1991; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, Chapter 714, Laws of 1991, amended the
Preferred Provider Agreements Act to require that health
care insurers enter into preferred provider agreements with
all providers wishing to offer health care services under

the preferred provider agreement; and

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

WHEREAS, the District Court of the First Judicial
District held in Saint Vincent Hospital and Health Center
Incr. v. Blue Cross and Blue Shield of Montana Inc., Cause
No. CV-91-1940 (decided September 9, 1992), that Chapter
714, Laws of 1991, does not apply to preferred provider
agreements in effect on the effective date of Chapter 714;
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;

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

Section 1, Section 33-22-1704, MCA, is amended to read:
"33-22-1704. (Temporary) Preferred provider agreements
authorized. (1) Notwithstanding any other provision of law
to the contrary, a health care insurer may:
(a) enter into agreements with providers relating to
health care services that may be rendered to insureds or

1 subscribers--on--whose--behalf--the--health--care--insurer--is
 2 providing--health--care--coverage,--including--preferred--provider
 3 agreements--relating--to:
 4 (i)--the--amounts--an--insured--may--be--charged--for--services
 5 rendered;--and
 6 (ii)--the--amount--and--manner--of--payment--to--the--provider;
 7 and
 8 (b)--issue--or--administer--policies--or--subscriber
 9 contracts--in--this--state--that--include--incentives--for--the
 10 insured--to--use--the--services--of--a--provider--that--has--entered
 11 into--an--agreement--with--the--insurer--pursuant--to--subsection
 12 (1)(a);
 13 (2)--A--health--care--insurer--shall--establish--terms--and
 14 conditions--to--be--met--by--providers--wishing--to--enter--into--an
 15 agreement--with--the--health--care--insurer--under--subsection
 16 (1)(a);--These--terms--and--conditions--may--not--discriminate
 17 against--or--among--providers;--For--the--purposes--of--this
 18 subsection,--price--differences--among--hospitals--or--other
 19 institutional--providers--produced--by--a--process--of--individual
 20 negotiation--or--by--price--differences--among--different
 21 geographical--areas--or--different--specialties--do--not
 22 constitute--discrimination;--A--health--care--insurer--may--not
 23 deny--a--provider--the--right--to--enter--into--an--agreement--under
 24 subsection--(1)(a)--if--the--provider--is--willing--to--meet--the
 25 terms--and--conditions--established--in--that--agreement;

1 (3)--A--provider--may--review--the--terms--and--conditions--of
 2 an--agreement--by--requesting--a--copy--of--the--agreement--from--the
 3 insurer;--The--insurer--shall--provide--a--copy--of--an--agreement
 4 within--30--days--of--a--request--and--may--charge--the--provider--for
 5 the--actual--cost--of--providing--the--copy;--If--the--provider
 6 elects--not--to--enter--into--an--agreement,--it--shall--return--the
 7 agreement--to--the--insurer--and--may--not--disclose--the--terms--and
 8 conditions--of--the--returned--agreement--to--another--provider--or
 9 other--person;
 10 (3)(4) A--preferred--provider--agreement--issued--or
 11 delivered--in--this--state--may--not--unfairly--deny--health
 12 benefits--for--health--care--services--covered;--(Terminates--July
 13 17--1993--see--37-Ch--7147--67--1991;)
 14 33-22-1704;--(Effective--July--17--1993)--Preferred--provider
 15 agreements--authorized;--(1)--Notwithstanding--any--other
 16 provision--of--law--to--the--contrary,--a--health--care--insurer--may
 17 (a)--enter--into--agreements--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 (i)--the--amounts--an--insured--may--be--charged--for--services
 23 rendered;--and
 24 (ii)--the--amount--and--manner--of--payment--to--the--provider;
 25 and

1 ~~{b}--issue--or---administer---policies---or---subscriber~~
 2 ~~contracts--in--this--state--that--include--incentives--for--the~~
 3 ~~insured--to--use--the--services--of--a--provider--that--has--entered~~
 4 ~~into--an--agreement--with--the--insurer--pursuant--to--subsection~~
 5 ~~{1}{a}.~~

6 ~~{2}--A--preferred--provider--agreement--issued--or--delivered~~
 7 ~~in--this--state--may--not--unfairly--deny--health--benefits--for~~
 8 ~~health--care--services--covered.~~

9 ~~{3}--This--part--does--not--require--that---an---insurer~~
 10 ~~negotiate---or--enter--into--agreements--with--any--specific~~
 11 ~~provider--or--class--of--providers."~~

12 ~~NEW--SECTION--Section--2--Retroactive-----applicability-~~
 13 ~~{Section--2{3}--and--this--section}--and--Chapter--7147--laws--of~~
 14 ~~19917--apply--retroactively,--within--the--meaning--of--1-2-1897--to~~
 15 ~~all--preferred--provider--agreements--entered--into--prior--to--{the~~
 16 ~~effective--date--of--this--act}.~~

17 ~~NEW--SECTION--Section--3--Repealer--Section--37--Chapter~~
 18 ~~7147--laws--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
 25 subscribers on whose behalf the health care insurer is

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

3 (i) 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
 15 {1}{a}.--These--terms--and--conditions--may--not--discriminate
 16 against--or--among--providers.--For--the--purposes--of--this
 17 subsection,--price--differences--among--hospitals--or--other
 18 institutional--providers--produced--by--a--process--of--individual
 19 negotiation--or--by--price---differences---among---different
 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--{1}{a}--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

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

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, 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.

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~~
 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~~

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-

SENATE BILL NO. 331

INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,
 STRIZICH, B. BROWN, KEATING, WILSON, DOHERTY, NATHE, M. HANSON,
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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING FOR REVIEW OF
 PREFERRED PROVIDER AGREEMENTS BY HEALTH CARE PROVIDERS;
 PROVIDING THAT CHAPTER 714, LAWS OF 1991, APPLIES
 RETROACTIVELY TO ALL PREFERRED PROVIDER AGREEMENTS ENTERED
 INTO BEFORE THE EFFECTIVE DATE OF CHAPTER 714; PROVIDING FOR
COMPETITION IN AWARDED PREFERRED PROVIDER AGREEMENTS;
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WHEREAS, Chapter 714, Laws of 1991, amended the
 Preferred Provider Agreements Act to require that health
 care insurers enter into preferred provider agreements with
 all providers wishing to offer health care services under

the preferred provider agreement; and

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

WHEREAS, the District Court of the First Judicial
 District held in Saint Vincent Hospital and Health Center
 Inc. v. Blue Cross and Blue Shield of Montana Inc., Cause
 No. CV-91-1940 (decided September 9, 1992), that Chapter
 714, Laws of 1991, does not apply to preferred provider
 agreements in effect on the effective date of Chapter 714,
 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;

THERE ARE NO CHANGES IN THIS BILL
 AND WILL NOT BE REPRINTED. PLEASE
 REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE BILL NO. 331

INTRODUCED BY LYNCH, R. JOHNSON, CRIPPEN, YELLOWTAIL,
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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 PREFERRED PROVIDER AGREEMENTS ACT; PROVIDING FOR REVIEW OF
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 PROVIDING THAT CHAPTER 714, LAWS OF 1991, APPLIES
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 Preferred Provider Agreements Act to require that health
 care insurers enter into preferred provider agreements with
 all providers wishing to offer health care services under

the preferred provider agreement; and

WHEREAS, the original purpose of Chapter 714, Laws of
 1991, was to apply the requirement concerning willing
 providers to all existing and new preferred provider
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WHEREAS, the District Court of the First Judicial
 District held in Saint Vincent Hospital and Health Center
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 No. CDV-91-1940 (decided September 9, 1992), that Chapter
 714, Laws of 1991, does not apply to preferred provider
 agreements in effect on the effective date of Chapter 714;
 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;

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

Section 1, Section 33-22-1704, MCA, is amended to read:
 "33-22-1704. (Temporary) Preferred provider agreements
 authorized: (1) Notwithstanding any other provision of law
 to the contrary, a health care insurer may:
 (a) enter into agreements with providers relating to
 health care services that may be rendered to insureds or

1 subscribers--on--whose--behalf--the--health--care--insurer--is
2 providing--health--care--coverage--including--preferred--provider
3 agreements--relating--to:

4 (i)--the--amounts--an--insured--may--be--charged--for--services
5 rendered;--and

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

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

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

1 (3)--A--provider--may--review--the--terms--and--conditions--of
2 an--agreement--by--requesting--a--copy--of--the--agreement--from--the
3 insurer.--The--insurer--shall--provide--a--copy--of--an--agreement
4 within--30--days--of--a--request--and--may--charge--the--provider--for
5 the--actual--cost--of--providing--the--copy.--if--the--provider
6 elects--not--to--enter--into--an--agreement,--it--shall--return--the
7 agreement--to--the--insurer--and--may--not--disclose--the--terms--and
8 conditions--of--the--returned--agreement--to--another--provider--or
9 other--person.

10 (3)(4) A--preferred--provider--agreement--issued--or
11 delivered--in--this--state--may--not--unfairly--deny--health
12 benefits--for--health--care--services--covered--(Terminates--July
13 17--1993--sec--37--Ch--7147--Lr--1991--)

14 33-22-1784--(Effective--July--17--1993)--Preferred--provider
15 agreements--authorized.--(i)--Notwithstanding--any--other
16 provision--of--law--to--the--contrary,--a--health--care--insurer--may:

17 (a)--enter--into--agreements--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 (i)--the--amounts--an--insured--may--be--charged--for--services
23 rendered;--and

24 (ii)--the--amount--and--manner--of--payment--to--the--provider;
25 and

1 ~~{b}--issue--or--administer--policies--or--subscriber~~
 2 ~~contracts--in--this--state--that--include--incentives--for--the~~
 3 ~~insured--to--use--the--services--of--a--provider--that--has--entered~~
 4 ~~into--an--agreement--with--the--insurer--pursuant--to--subsection~~
 5 ~~{1}(a);~~

6 ~~{2}--A--preferred--provider--agreement--issued--or--delivered~~
 7 ~~in--this--state--may--not--unfairly--deny--health--benefits--for~~
 8 ~~health--care--services--covered;~~

9 ~~{3}--This--part--does--not--require--that--an--insurer~~
 10 ~~negotiate--or--enter--into--agreements--with--any--specific~~
 11 ~~provider--or--class--of--providers;^~~

12 ~~NEW--SECTION--Section--2--Retroactive--applicability--~~
 13 ~~{Section--2(3)--and--this--section}--and--Chapter--714--laws--of~~
 14 ~~1991--apply--retroactively--within--the--meaning--of--1-2-109--to~~
 15 ~~all--preferred--provider--agreements--entered--into--prior--to--the~~
 16 ~~effective--date--of--this--act};~~

17 ~~NEW--SECTION--Section--3--Repealer--Section--3--Chapter~~
 18 ~~714--laws--of--1991--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
 25 subscribers on whose behalf the health care insurer is

1 providing health care coverage, including preferred provider
 2 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
 15 (1)(a). These terms and conditions may not discriminate
 16 against or among providers. For the purposes of this
 17 subsection, price differences among hospitals or other
 18 institutional providers produced by a process of individual
 19 negotiation or by price differences among different
 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 (1)(a) 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

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

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, 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.

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~~
 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~~

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-