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INTRODUCED BY Christiane Eck ^{SB} BILL NO. 162 Franklin Chelton

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HEALTH MAINTENANCE ORGANIZATION TO PROVIDE CERTAIN INFORMATION ABOUT THE ORGANIZATION UPON REQUEST; PROHIBITING THE USE OF A COMPLAINT SYSTEM UNLESS A DESCRIPTION OF THE SYSTEM IS PROVIDED UPON REQUEST; REQUIRING A HEALTH MAINTENANCE ORGANIZATION TO PROVIDE A TOLL-FREE TELEPHONE NUMBER FOR RESOLUTION OF COMPLAINTS BY ENROLLEES; AUTHORIZING THE COMMISSIONER OF INSURANCE TO SUSPEND OR REVOKE A HEALTH MAINTENANCE ORGANIZATION'S CERTIFICATE OF AUTHORITY FOR FAILURE TO ESTABLISH THE TOLL-FREE NUMBER; AMENDING SECTIONS 33-31-303 AND 33-31-402, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Information to be provided upon request. A health maintenance organization shall provide the following information in writing, in easily understood language, upon request:

- (1) the information required by 33-31-301(3) to be included in the evidence of coverage;
- (2) an explanation of how an enrollee gains access to primary care and specialist providers providing health care services for the health maintenance organization;
- (3) how the referral and utilization review process works in the health maintenance organization, if those services are used by the health maintenance organization;
- (4) how providers are compensated, whether there are financial disincentives for referrals made to specialist health care services providers, and whether there are any conflicts of interest in the compensation system between providers and the health maintenance organization;
- (5) the rights of an enrollee in the complaint system described pursuant to subsection (1);
- (6) the criteria used by the health maintenance organization to select and retain providers;
- (7) the health care services or types of health care services that are not provided by the health maintenance organization;
- (8) whether provider specialists either inside or outside the health maintenance organization may be seen by enrollees and, if so, under what conditions and whether there is an additional cost for enrollees

1 to see provider specialists either inside or outside the health maintenance organization;

2 (9) whether agreements between providers and the health maintenance organization contain any
3 provisions prohibiting a provider from discussing any of the following:

4 (a) the full range of treatment options available to an enrollee;

5 (b) the method used by an enrollee to gain access to health care services not offered within the
6 health maintenance organization;

7 (c) whether there are any disincentives to make referrals to specialist providers; and

8 (d) whether the employment of a provider by the health maintenance organization, or contract to
9 provide health care services between a provider and the health care maintenance organization, has been
10 terminated by the health maintenance organization.

11

12 **Section 2.** Section 33-31-303, MCA, is amended to read:

13 **"33-31-303. Complaint system.** (1) (a) Each authorized health maintenance organization shall
14 establish and maintain a complaint system to provide reasonable procedures to resolve written complaints
15 initiated by enrollees. A health maintenance organization may not use a complaint system:

16 (i) before the commissioner approves it; and

17 (ii) unless the health maintenance organization describes it in each evidence of coverage issued or
18 delivered to an enrollee in this state and in each explanation provided pursuant to [section 1].

19 (b) Each time the health maintenance organization denies a claim or initiates disenrollment,
20 cancellation, or nonrenewal, it shall notify the affected enrollee of the right to file a complaint and the
21 procedure for filing a complaint.

22 (c) Each health maintenance organization shall acknowledge a complaint within 10 days of
23 receiving it.

24 (d) Each health maintenance organization shall retain records of all complaints for 3 years and shall
25 develop a summary for each year that must include:

26 (i) a description of the procedures of the complaint system;

27 (ii) the total number of complaints handled through the complaint system, a compilation of causes
28 underlying the complaints filed, the date on which each complaint was filed, the date on which each
29 complaint was resolved, the disposition of each complaint filed, the time it took to process each complaint,
30 and a summary of each administrative change made because of a complaint; and

1 (iii) the number, amount, and disposition of malpractice claims made by enrollees of the health
2 maintenance organization that were settled during the year by the health maintenance organization.

3 (e) The health maintenance organization shall annually on or before March 1 file with the
4 commissioner the summary described in subsection (1)(d) for the preceding year.

5 (2) Each authorized health maintenance organization shall establish a toll-free telephone number
6 that may be used by enrollees to make complaints to the health maintenance organization. Each authorized
7 health maintenance organization shall ensure that persons operating the toll-free number are knowledgeable
8 in the health maintenance organization's complaint system and the rights of enrollees in that system.

9 ~~(2)(3)~~ The commissioner shall hold in confidence the information provided by the health
10 maintenance organization pursuant to subsection (1)(d)(iii).

11 ~~(3)(4)~~ The commissioner may examine a complaint system."
12

13 **Section 3.** Section 33-31-402, MCA, is amended to read:

14 "**33-31-402. Suspension or revocation of certificate of authority.** (1) The commissioner may ~~in~~
15 ~~his discretion~~ suspend or revoke ~~any a~~ certificate of authority issued to a health maintenance organization
16 under this chapter if ~~he~~ the commissioner finds that any of the following conditions exist:

17 (a) The health maintenance organization is operating in contravention of its basic organizational
18 document or in a manner contrary to that described in any other information submitted under 33-31-201
19 ~~and provided if~~ that ~~such~~ operation adversely affects the health maintenance organization's ability to
20 provide benefits and to operate under the application approved by the commissioner, ~~unless.~~ Operation
21 in contravention of the basic organizational document or in a manner contrary to that described in any other
22 information submitted under 33-31-201 need not be reported to the commissioner if amendments to ~~such~~
23 the submissions have been filed with and approved by the commissioner.

24 (b) The health maintenance organization issues evidences of coverage or uses a schedule of
25 charges for health care services that do not comply with the requirements of 33-31-301.

26 (c) The health maintenance organization does not provide or arrange for basic health care services.

27 (d) The health maintenance organization is no longer financially responsible and may reasonably
28 be expected to be unable to meet its obligations to enrollees or prospective enrollees.

29 (e) The health maintenance organization has failed to implement a mechanism affording the
30 enrollees an opportunity to participate in matters of policy and operation under 33-31-222.

1 (f) The health maintenance organization has failed to implement the complaint system and the
2 toll-free telephone number required by 33-31-303 to resolve valid complaints in a reasonable manner.

3 (g) The health maintenance organization, or any person on its behalf, has advertised or
4 merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner.

5 (h) The continued operation of the health maintenance organization would be hazardous to its
6 enrollees.

7 (i) The health maintenance organization has otherwise failed to substantially comply with this
8 chapter.

9 (2) The commissioner may ~~in his discretion~~ suspend or revoke a certificate of authority only if ~~he~~
10 the commissioner complies with the requirements of 33-31-404.

11 (3) When the certificate of authority of a health maintenance organization is suspended, the health
12 maintenance organization may not, during the period of ~~such~~ suspension, enroll any additional enrollees
13 except newborn infants or other newly acquired dependents of existing enrollees and may not engage in
14 any advertising or solicitation.

15 (4) If the commissioner revokes the certificate of authority of a health maintenance organization,
16 the health maintenance organization shall proceed, immediately following the effective date of the order
17 of revocation, to wind up its affairs and may not transact further business except as may be essential to
18 the orderly conclusion of its affairs. It may not engage in further advertising or solicitation following the
19 effective date of the order of revocation. The commissioner may by written order permit further operation
20 of the health maintenance organization if ~~he~~ the commissioner finds further operation to be in the best
21 interest of enrollees to the extent that enrollees will be afforded the greatest practical opportunity to obtain
22 continuing health care coverage."
23

24 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 33, chapter 31, and the provisions of Title 33, chapter 31, apply to [section 1].
26

27 **NEW SECTION. Section 5. Retroactive applicability.** [Sections 1 through 3] apply retroactively,
28 within the meaning of 1-2-109, to health maintenance organizations receiving a certificate of authority prior
29 to [the effective date of this act].
30

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0162, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring a health maintenance organization to provide certain information about the organization upon request.

ASSUMPTIONS:


1. Health Maintenance Organizations (HMOs) presently maintain a complaint system and provide a copy of the complaint record to the State Auditor's Office. This bill will require HMOs to disclose and explain more information concerning evidence of coverage including the complaint system to their enrollees.

FISCAL IMPACT:

Passage of SB 162 will have no fiscal impact on the state.

 1-17-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/17/97

CHRIS CHRISTIAENS, PRIMARY SPONSOR DATE

Fiscal Note for SB0162, as introduced

SB 162