

104TH CONGRESS
2D SESSION

H. R. 3751

To establish certain requirements for managed care plans.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1996

Ms. VELÁZQUEZ (for herself, Mr. OWENS, Mr. NADLER, Mr. CONYERS, Mr. HILLIARD, Mr. THOMPSON, Mr. EVANS, and Mr. JOHNSTON of Florida) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To establish certain requirements for managed care plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Managed Care Bill
5 of Rights for Consumers Act of 1996”.

6 **SEC. 2. REQUIREMENTS FOR MANAGED CARE PLANS.**

7 (a) **REQUIRED COVERAGE FOR SERVICES FUR-**
8 **NISHED BY SPECIALIST NOT CONTRACTED WITH MAN-**
9 **AGED CARE PLAN.**—In a case in which an enrollee of a
10 managed care plan demonstrates to the plan that the plan
11 does not provide a specialist with knowledge of a specific

1 condition for which the enrollee requires treatment, the
2 plan shall cover such services covered by the plan, under
3 comparable terms and conditions, furnished by a specialist
4 obtained by the enrollee without regard to whether or not
5 the specialist has a contractual or other arrangement with
6 the plan for the provision of such services to such enroll-
7 ees.

8 (b) REQUIREMENT FOR CONTINUED SERVICES OF A
9 SPECIALIST WITHOUT PRE-AUTHORIZATION.—In a case
10 in which an enrollee of a managed care plan requires con-
11 tinued treatment of a specific condition from a specialist
12 with knowledge of the specific condition, and such enrollee
13 has been referred by a primary care physician to a special-
14 ist, the enrollee may continue to obtain services from the
15 specialist without additional authorization from the pri-
16 mary care physician.

17 (c) ASSURING EQUITABLE COVERAGE WITH RE-
18 SPECT TO EMERGENCY SERVICES.—A managed care plan
19 that provides any coverage with respect to emergency serv-
20 ices (as defined in section 5(4)) shall cover emergency
21 services furnished to an enrollee of the plan—

22 (1) without regard to whether or not the pro-
23 vider furnishing the emergency services has a con-
24 tractual or other arrangement with the plan for the
25 provision of such services to such enrollees, and

1 (2) without regard to prior authorization.

2 (d) REQUIREMENT FOR TRANSLATION BILINGUAL
3 RESOURCES.—In a case in which 5 percent of the enroll-
4 ees of a managed care plan in an area (as defined in sec-
5 tion 5(1)) are members of a single ethnic-minority group
6 that speaks English as a second language, the managed
7 care plan shall have available, on a continuous basis, a
8 person in the area to provide translation to such enrollees
9 in obtaining information and services under the plan. Such
10 person may be a doctor, nurse, or counselor who is em-
11 ployed by the managed care plan.

12 (e) PROHIBITION OF FINANCIAL BONUSES TO PHYSI-
13 CIANS WHO LIMIT SERVICES.—A managed care plan shall
14 ensure that no specific payment is made directly or indi-
15 rectly under the plan to a physician or physician group
16 as an inducement to reduce or limit medically necessary
17 services provided with respect to an enrollee.

18 (f) DETERMINATION OF MEDICALLY NECESSARY
19 AND APPROPRIATE TREATMENT.—

20 (1) IN GENERAL.—Under a managed care plan,
21 the determination of what is medically necessary and
22 appropriate for the health of an enrollee may be
23 made only by a licensed health care practitioner.

24 (2) SECOND OPINION AS TO MEDICALLY NEC-
25 ESSARY.—Any licensed health care practitioner who

1 has a contractual or other arrangement with a man-
2 aged care plan may, upon request, provide an en-
3 rollee of the plan with a second opinion as to what
4 constitutes medically necessary and appropriate
5 treatment for the health of such enrollee.

6 (3) INSURANCE COVERAGE.—A managed care
7 plan must determine and pay a reasonable and ap-
8 propriate amount for a service determined, as de-
9 scribed in paragraphs (1) and (2), to be medically
10 necessary and appropriate if the service is covered
11 by the plan.

12 (g) REQUIREMENT FOR SERVICE TO AREAS THAT IN-
13 CLUDE A MEDICALLY UNDERSERVED POPULATION.—A
14 managed care plan seeking to provide services in an area
15 that includes a medically underserved population must
16 submit a plan to the Secretary outlining a proposal for
17 service to the medically underserved population.

18 (h) REQUIREMENT FOR MINIMUM NUMBER OF DOC-
19 TORS.—A managed care plan seeking to provide services
20 in an area must certify to the Secretary that the plan pro-
21 vides at least one physician for every 2,000 enrollees.

22 (i) DISCLOSURE OF FINANCIAL ARRANGEMENTS.—A
23 managed care plan shall disclose information to enrollees
24 on any financial arrangements which may restrict referral

1 or treatment options or limit the services offered by the
2 plan to such enrollees.

3 (j) REQUIREMENT FOR GEOGRAPHICAL ACCESSIBIL-
4 ITY.—A managed care plan shall ensure that items and
5 services (including laboratory and specialist services) cov-
6 ered under the plan shall be available through providers
7 that are geographically accessible to enrollees of such plan.

8 (k) MEANINGFUL CHOICE OF PROVIDERS.—A man-
9 aged care plan shall provide to enrollees a choice of at
10 least three providers within each category of providers
11 based on the health care needs of such enrollees, taking
12 into account the age, gender, health, native language,
13 acute or chronic diseases, and special needs.

14 (l) RIGHT TO SEEK CARE FROM OUT OF NETWORK
15 PROVIDER.—A managed care plan shall cover services cov-
16 ered by the plan that are furnished by a physician or pro-
17 vider obtained by the enrollee without regard to whether
18 such physician or provider has a contractual or other ar-
19 rangement with the plan for the provision of such services
20 to such enrollees. The plan may impose a reasonable de-
21 ductible and reasonable co-payment subject to a reason-
22 able annual limit on total annual out of pocket expenses.

23 (m) CONFIDENTIALITY OF INFORMATION.—A man-
24 aged care plan shall provide that information collected by

1 the plan on items and services used by the enrollees be
2 protected as confidential information.

3 (n) REQUIREMENT FOR GRIEVANCE PROCEDURES.—

4 Not later than 90 days after the date of the enactment
5 of this Act, the Health Care Financing Administration
6 shall establish complaint and grievance procedures for en-
7 rollees of managed care plans.

8 **SEC. 3. ENFORCEMENT.**

9 (a) IN GENERAL.—Any entity that offers a managed
10 care plan that violates a requirement of section 2 shall
11 be subject to a civil money penalty in an amount deter-
12 mined by the Secretary.

13 (b) PROCESS.—The provisions of section 1128A of
14 the Social Security Act (42 U.S.C. 1320a–7a) (other than
15 subsections (a) and (b)) shall apply to civil money pen-
16 alties under this section in the same manner as they apply
17 to a penalty or proceeding under section 1128A(a) of such
18 Act.

19 **SEC. 4. REGULATIONS.**

20 The Secretary shall promulgate such regulations as
21 may be necessary or appropriate to carry out this Act.

22 **SEC. 5. DEFINITIONS.**

23 For purposes of this Act:

1 (1) AREA.—The term “area” means the local
2 health–service area as designated in the managed
3 care plan of operations.

4 (2) EMERGENCY DEPARTMENT.—The term
5 “emergency department” includes, with respect to a
6 hospital, a trauma center in the hospital if the cen-
7 ter—

8 (A) is designated under section 1213 of
9 the Public Health Service Act, or

10 (B) is in a State that has not made such
11 designations and is determined by the Secretary
12 to meet the standards under such section for
13 such designation.

14 (3) EMERGENCY MEDICAL CONDITION.—The
15 term “emergency medical condition” means a medi-
16 cal condition, the onset of which is sudden, that
17 manifests itself by symptoms of sufficient severity,
18 including severe pain, that a prudent layperson, who
19 possesses an average knowledge of health and medi-
20 cine, could reasonably expect the absence of imme-
21 diate medical attention to result in—

22 (A) placing the person’s health in serious
23 jeopardy,

24 (B) serious impairment to bodily functions,
25 or

1 (C) serious dysfunction of any bodily organ
2 or part.

3 (4) EMERGENCY SERVICES.—The term “emer-
4 gency services” means—

5 (A) health care items and services fur-
6 nished in the emergency department of a hos-
7 pital, and

8 (B) ancillary services routinely available to
9 such department,

10 to the extent they are required to evaluate and treat
11 an emergency medical condition until the condition
12 is stabilized.

13 (5) LICENSED HEALTH CARE PRACTITIONER.—
14 The term “licensed health care practitioner” has the
15 meaning given such term in section 431(6) of the
16 Health Care Quality Improvement Act of 1986
17 (Public Law 99–660; 42 U.S.C. 11151(6)).

18 (6) MANAGED CARE PLAN.—The term “man-
19 aged care plan” means a health plan that provides
20 or arranges for the provision of health care items
21 and services to enrollees primarily through partici-
22 pating physicians and providers.

23 (7) MEDICALLY UNDERSERVED POPULATION.—
24 The term “medically underserved population” means
25 the population of an urban or rural area designated

1 by the Secretary as an area with a shortage of per-
2 sonal health services or a population group des-
3 igned by the Secretary as having a shortage of
4 such services.

5 (8) PARTICIPATING.—The term “participating”
6 means, with respect to a physician or provider in re-
7 lation to managed care, a physician or provider that
8 furnishes health care items and services to enrollees
9 of the plan under an agreement with the plan.

10 (9) SECRETARY.—The term “Secretary” means
11 of the Secretary of Health and Human Services.

12 (10) STABILIZED.—The term “stabilized”
13 means, with respect to an emergency medical condi-
14 tion, that no material deterioration of the condition
15 is likely, within reasonable medical probability, to re-
16 sult or occur before an individual can be transferred
17 in compliance with the requirements of section 1867
18 of the Social Security Act.

19 **SEC. 6. EFFECTIVE DATE.**

20 The provisions of this Act shall apply to managed
21 care plans offered or renewed 90-days after the date of
22 the enactment of this Act.

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