COMMITTEE REPORT

February 16, 2010

**H. 3371**

Introduced by Reps. Harvin, Kennedy, Alexander, Funderburk, Gunn, Hart, McEachern, McLeod, Ott, J.E. Smith, Spires, Weeks and Bowers

S. Printed 2/16/10--S.

Read the first time April 28, 2009.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (H. 3371) to amend the Code of Laws of South Carolina, 1976, by adding Section 38‑71‑243 so as to regulate a provider of health care and the issuer of individual, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 3, beginning on line 7, by striking Section 38‑71‑245, as contained in SECTION 1, and inserting:

/ Section 38‑71‑245. (A) Each provider contract must contain a continuation of care provision consistent with the language of Section 38‑71‑243.

(B) Nothing in this section prohibits a provider contract from providing continuation of care services greater than those required to be offered pursuant to subsection (A) or more favorable to the covered person than those required to be offered pursuant to subsection (A). /

Amend further by striking SECTION 4 in its entirety and inserting:

/ SECTION 4. This act takes effect upon approval by the Governor and applies to an individual health plan, a group health plan, or a health benefit plan, including the state health plan, issued, renewed, delivered, or entered into after December 31, 2010 /.

Renumber sections to conform.

Amend title to conform.

DAVID L. THOMAS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Insurance indicates that there would be some additional filings needing to be reviewed but any added cost would be absorbed within existing resources. There would be no fiscal impact on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑243 SO AS TO REGULATE A PROVIDER OF HEALTH CARE AND THE ISSUER OF INDIVIDUAL HEALTH INSURANCE WHEN AN ISSUER NEGOTIATES RATES WITH A PROVIDER FOR COVERED HEALTH CARE SERVICES AND THEN TERMINATES OR OTHERWISE NONRENEWS THE PROVIDER’S CONTRACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑243. (A) As used in this section:

(1) ‘Continuation of care’ means the provision of in‑network level benefits for services rendered by certain out‑of‑network providers for a definite period of time in order to ensure continuity of care for covered persons for a serious medical condition. Continuation of care must be provided for ninety days or until the termination of the benefit period, whichever is greater.

(2) ‘Health insurance coverage’ means as defined in Sections 38‑71‑670(6) and 38‑71‑840(14).

(3) ‘Health insurance issuer’ or ‘issuer’ means an entity that provides health insurance coverage in this State as defined in Sections 38‑71‑670(7) and 38‑71‑840(16).

(4) ‘State health plan’ means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1.

(5) ‘Serious medical condition’ means a health condition or illness, that requires medical attention, and where failure to provide the current course of treatment through the current provider would place the person’s health in serious jeopardy, and includes cancer, acute myocardial infarction, and pregnancy. Such attestation by the treating physician must be made upon the request of the patient and in a written form approved by the Department of Insurance or prescribed through regulation, order, or bulletin.

(B) This section applies to an individual health plan, a group health plan, or a health benefit plan, including the state health plan, that is delivered, issued for delivery, or renewed in this State and which provides health insurance coverage. Continuation of care must not be provided if suspension or revocation of the provider’s license occurs.

(C) If a provider contract is terminated or nonrenewed, the issuer and the provider shall comply with the following requirements:

(1) The issuer is liable for covered benefits rendered in the continuation of care by a provider to a covered person for a serious medical condition. Except as required by this section, the benefits payable for services rendered during the continuation of care are subject to the policy’s or contract’s regular benefit limits.

(2) The issuer shall not require a covered person to pay a deductible or copayment which is greater than the in-network rate for services rendered during the continuation of care.

(3) An issuer offering health insurance coverage shall not require a covered person, as a condition of continued coverage under the plan, to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of covered benefits rendered as provided for in this section to the covered person or the dependent of a covered person.

(4) The provider shall accept as payment in full for services rendered within in the continuation of care the negotiated rate under the provider contract.

(5) Except for an applicable deductible or a copayment, a provider shall not bill or otherwise hold a covered person financially responsible for services rendered in the continuation of care and furnished by the provider, unless the provider has not received payment in accordance with item (4) of this subsection and in accordance with Article 2, Chapter 59 of this title.

(6) Upon receipt of the patient’s request accompanied by the physician’s attestation on the prescribed form, the issuer shall notify the provider and the covered person of the provider’s date of termination from the network and of the continuation of care provisions as provided for in this section.

(7) The issuer is responsible for determining if a covered person qualifies for continuation of care and may request additional information in reaching such determination.

Section 38‑71‑245. Each provider contract must contain a continuation of care provision consistent with the language of Section 38‑71‑243.

Section 38‑71‑247. Each health insurance issuer shall include a plain language description of the continuation of care provisions set forth in Section 38‑71‑243 in the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage it provides to covered persons.”

SECTION 2. The Department of Insurance may promulgate regulations necessary for implementation of this act.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor and applies to an individual health plan, a group health plan, or a health benefit plan, including the state health plan, issued, renewed, delivered, or entered into after December 31, 2009.

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