**South Carolina General Assembly**

119th Session, 2011-2012

**S. 1028**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Rose

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Introduced in the Senate on January 10, 2012

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Create prepaid medical service agreements

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/5/2011 Senate Prefiled

12/5/2011 Senate Referred to Committee on **Banking and Insurance**

1/10/2012 Senate Introduced and read first time ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\01-10-12.docx))

1/10/2012 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 20](file:///h:\sj%20archive\2012\01-10-12.docx))

**VERSIONS OF THIS BILL**

[12/5/2011](file:///p:\pprever\2011-12\1028_20111205.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 21 TO TITLE 37 SO AS TO PROVIDE FOR THE CREATION OF PREPAID MEDICAL SERVICE AGREEMENTS THROUGH WHICH EMPLOYERS, INDIVIDUALS AND NON‑EMPLOYER ORGANIZATIONS ON BEHALF OF INDIVIDUALS MAY CONTRACT DIRECTLY WITH HEALTH CARE PROVIDERS TO PROVIDE HEALTH CARE SERVICES FOR INDIVIDUALS, TO PROVIDE THOSE CONTRACTS ARE NOT INSURANCE, AND TO PROVIDE CERTAIN DEFINITIONS, AMONG OTHER THINGS.

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

SECTION 1. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 21

Prepaid Medical Services

Section 37‑21‑110. As used in this chapter:

(1) ‘Department’ means the South Carolina Department of

Consumer Affairs.

(2) ‘Prepaid medical services provider’ means an entity or an individual offering prepaid medical services to the general public or a segment of the general public either directly to an individual consumer or indirectly to an individual through an employer or a certain non‑employer organization.

(3) ‘Prepaid medical services’ means medical services provided by one or more individuals or by an entity through one or more individuals licensed or admitted to practice medicine or an appropriate allied health profession in this State pursuant to a contractual agreement in exchange for payment of a predetermined, specified, periodic fee. A contractual agreement for prepaid medical services may be made between a prepaid medical services provider either directly to an individual or indirectly to an individual through an employer or nonprofit organization.

Section 37‑21‑115. A prepaid medical services contract created pursuant to this chapter must not be considered insurance under Title 38 or any other provision of law in this State, and is specifically exempt from the provisions of Title 38. A prepaid medical services contract only may obligate the prepaid medical services provider to provide medical services specified in the contract to the individual.

Section 37‑21‑120. A prepaid medical services provider may contract directly with an individual, an employer acting on behalf of an individual, or a non‑employer organization acting on behalf of an individual to provide health care services. The individual must sign the contract with the prepaid medical services provider, and a contractual relationship must exist between the individual and the provider. The individual must be the person to whom the prepaid medical services provider is obligated to provide medical services under the contract, and the provider shall not provide medical services under the contract to a person other than the individual with whom it formed the contract. The individual who forms a prepaid medical services contract with a prepaid medical services provider is liable for prepayment of the consideration required under the contract.

Section 37‑21‑125. An individual who is aggrieved by a prepaid medical services company with which it has entered a contract permitted under this chapter may file a complaint with the department, and the department shall review the complaint, investigate it as the department considers appropriate, and initiate action as authorized by law.

Section 37‑21‑130. (A) The department may file a request for a contested case hearing with the Administrative Law Court if a prepaid medical services provider violates a provision of this chapter and the prepaid medical services provider is subject to any combination of the following:

(1) an administrative order to cease and desist from committing violations of this chapter; and

(2) administrative fines up to five thousand dollars.

(B) Upon satisfactory evidence that a prepaid medical services provider has violated or failed to comply with a provision of this chapter or regulation promulgated pursuant to the authority of this chapter, the administrator may issue an order requiring the provider to cease and desist from engaging in the violation. A prepaid medical services provider may file a request for a contested case hearing with the Administrative Law Court if it believes it is aggrieved by the decision of the administrator.

Section 37‑21‑135. For purposes of this chapter, the failure to abide by the terms of a filed contract or the use of false, misleading, unfair, or deceptive acts or practices on the part of a prepaid medical services provider is a violation of the Consumer Protection Code and subject to all of the remedies of Chapter 6, where applicable. Repeated or systematic failure to abide by the terms of a contract or repeated or systematic use of false, misleading, unfair, or deceptive acts or practices on the part of a prepaid medical services provider are grounds for sanctions that may be authorized by regulations of the department and for prohibiting the medical services provider from entering into new contracts with the public or segments of the public until the violations are remedied to the satisfaction of the department.

Section 37‑21‑140. The department is authorized to promulgate rules and regulations which, to become law, must be approved by the General Assembly for the implementation of this chapter.”

SECTION 2. This act takes effect upon approval by the Governor.

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