

Act No. 168
Public Acts of 2023
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senator Singh

ENROLLED SENATE BILL No. 281

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” (MCL 500.100 to 500.8302) by adding section 3406aa.

The People of the State of Michigan enact:

Sec. 3406aa. (1) A contracting entity may grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided under a provider network contract, if both of the following requirements are met:

(a) At the time the provider network contract is entered into or renewed, or when there are material modifications to a contract relevant to granting access to a provider network contract to a third party, the contracting entity allows a provider that is part of the carrier's provider network to choose to not participate in third-party access to the provider network contract or to enter into a contract directly with the health insurer that acquired the provider network. If a provider chooses not to participate in third-party access, the contracting entity must not cancel or otherwise end a contractual relationship with the provider. When initially contracting with a provider, a contracting entity must accept a qualified provider if a provider rejects participation in third-party access. This subdivision does not apply to a contracting entity that is not a health insurer or dental carrier. As used in this subdivision, "qualified provider" means a provider who meets the contracting entity's criteria to enter into the provider network.

(b) All of the following are met:

(i) The provider network contract specifically states that the contracting entity may enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity, and if the contracting entity is a dental carrier, the provider chose to participate in third-party access at the time the provider network contract was entered into or renewed. If the contracting entity is an insurer, the third-party access provision of a provider network contract must specifically state that the provider network contract grants third-party access to the provider network and, for provider network contracts with dental carriers, that the dentist has the right to choose not to participate in third-party access.

(ii) The third party accessing the contract agrees to comply with all of the provider network contract's terms.

(iii) The contracting entity identifies, in writing or in electronic form to the provider, all third parties that would have access to the dental services or contractual discounts of the provider network as of the date the contract is entered into or renewed.

(iv) The contracting entity identifies all third parties in existence in a list on its website that is updated at least once every 30 days and displays the date the list was last updated.

(v) The contracting entity requires a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken. This subparagraph does not apply to electronic transactions mandated by the health insurance portability and accountability act of 1996, Public Law 104-191.

(vi) The contracting entity notifies the third party of the termination of a provider network contract not later than 30 days after the termination date with the contracting entity.

(vii) A third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract.

(viii) The contracting entity makes available a copy of the provider network contract relied on in the adjudication of a claim to a participating provider within 30 days after a request from the provider.

(2) A provider is not bound by or required to perform dental treatment or services under a provider network contract that has been granted by a contracting entity to a third party if the contracting entity does not meet the requirements under subsection (1).

(3) This section does not apply if any of the following apply:

(a) Access to a provider network contract is granted to a dental carrier or an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. A list identifying each of the contracting entity's affiliates as affiliates must be made available to a provider on the contracting entity's website.

(b) Access to a provider network contract is granted by a dental carrier that retains the responsibility for administering the dental benefit plan in accordance with its applicable provider network contracts, including all fee schedules and processing policies.

(c) A provider network contract for dental services provided to beneficiaries under health care coverage that is established or maintained by a local, state, or federal government including any of the following:

(i) Medicaid established under title XIX of the social security act, 42 USC 1396 to 1396w-6.

(ii) The state children's health insurance program established under title XXI of the social security act, 42 USC 1397aa to 1397mm.

(iii) Medicare advantage as that term is defined in section 3801.

(4) As used in this section:

(a) "Contracting entity" means a person that enters into direct contracts with providers for the delivery of dental services in the ordinary course of business, including a third-party administrator and a dental carrier.

(b) "Dental benefit plan" means a benefits plan that pays or provides dental expense benefits for covered dental services and is delivered or issued for delivery by or through a dental carrier on a stand-alone basis.

(c) "Dental carrier" means a nonprofit dental care corporation or other entity authorized to provide dental benefits, or a health benefits plan that includes coverage for dental services.

(d) "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease. Dental services does not include services delivered by a provider that are billed as medical expenses under a health benefits plan.

(e) "Dentist" means that term as defined in section 2701 of the public health code, 1978 PA 368, MCL 333.2701.

(f) "Provider" means a person that, acting within the scope of licensure or certification, provides dental services or supplies defined by the health benefits or dental benefit plan. Provider does not include a physician organization or physician hospital organization that leases or rents the physician organization's or physician hospital organization's network to a third party.

(g) "Provider network contract" means a contract between a contracting entity and a provider that specifies the rights and responsibilities of the contracting entity and provides for the delivery and payment of dental services to an enrollee.

(h) "Third party" means a person that enters into a contract with a contracting entity or with another third party to gain access to the dental services or contractual discounts of a provider network contract. Third party does not include an employer or other group for whom the dental carrier or contracting entity provides administrative services.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor