120-2-20-.03 Unlawful Agreements between Insurers and Providers

(1) An agreement between an insurer and a provider shall not include a most favored nation clause or an upper limit trigger clause.

(2) Definitions:

(a) "Most favored nation clause" means any clause or combination of clauses in an agreement between an insurer and a provider that:

1. Prohibits, or grants the insurer an option to prohibit, a provider from contracting with another party to provide health care services at a lower rate than the payment or reimbursement rate specified in the contract;

2. Requires, or grants the insurer an option to require, a provider to accept a lower payment or reimbursement rate if the provider agrees to provide health care services to another party at a lower rate than the payment or reimbursement rate specified in the contract;

3. Requires, or grants a contracting insurer an option to terminate or renegotiate an existing contract in the event the provider agrees to provide health care services to any other party at a lower rate; or

4. Requires a provider to disclose, to the insurer or its designee, the provider's contractual payment or reimbursement rates with other parties.

(b) "Upper limit trigger clause" means any clause or combination of clauses in an agreement between an insurer (the "first insurer") and a provider that requires the provider to cease accepting as patients individuals covered by an agreement with another insurer, or non-covered patients, if the provider elects to limit, or cease, accepting patients covered by the agreement between the first insurer and the provider. As used in this Regulation, the term "upper limit trigger clause" only refers to a clause or combination of clauses contained within an agreement between an insurer and a provider where the provider is a primary care physician and is compensated by the insurer on a capitated basis.

(3) The Commissioner shall follow the procedure set forth in O.C.G.A. § 33-6-13(d) whenever there is a violation of this regulation.

(4) For the purposes of this regulation, "provider" means any physician, hospital, or other person who is licensed or otherwise authorized in this state to furnish health care services.

(5) For the purposes of this regulation, "health care services" means any services included in the furnishing to any individual of medical or dental care or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

Authority - O.C.G.A. Secs. 33-2-9, 33-6-13, 33-6-36.

120-2-60-.15 Internal Audit Function Requirements.

(1) Exemption – An insurer is exempt from the requirements of this section if:

(a) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $500,000,000; and,

(b) If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than $1,000,000,000.

(2) Function – The insurer or group of insurers shall establish an internal audit function providing independent, objective and reasonable assurance to the Audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance shall be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

(3) Independence – In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. Specifically, the internal audit function will not defer ultimate judgment on audit matters to others, and shall appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships.

(4) Reporting – The head of the internal audit function shall report to the audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

(5) Additional Requirements – If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level.

Authority O.C.G.A. Secs. 33-2-9, 33-3-21.

~~120-2-20-.03~~

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~~(d)~~4. Requires a provider to disclose, to the insurer or its designee, the provider's contractual payment or reimbursement rates with other parties.

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