

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 17-0906.01 Kristen Forrestal x4217

SENATE BILL 17-190

SENATE SPONSORSHIP

Crowder, Moreno

HOUSE SPONSORSHIP

Gray, Buckner, Ginal

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING A CARRIER FROM SETTING FEES FOR A**
102 **DENTAL SERVICE THAT IS NOT PAID FOR BY THE CARRIER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a contract between a carrier and a dentist from requiring a dentist to provide services to a covered person at a fee set by, or subject to the approval of, the carrier unless:

- ! The services are covered services under the person's policy;
- and
- ! The carrier provides payment for the service under the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 1, 2017

person's policy in an amount that is reasonable and not nominal or de minimis.

The bill authorizes a dentist to charge a covered person for noncovered items or services in any amount determined by the dentist and agreed to by the patient if the amount is equal to, or less than, the usual and customary amount that the dentist charges individuals who are not enrolled for such items and services.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Consumers in the health care market are best served when
5 contracts between health care providers and insurance carriers are fair and
6 equitable.

7 (b) The use of contract provisions to control prices for which the
8 carrier assumes no risk is an unfair marketing practice that results in
9 inequitable and distorted markets. It is a basic business principle that
10 inequitable contracting results in cost shifting and drives up costs for the
11 uninsured, who are often least able to access the care they need.

12 (c) It is important public policy of this state to ensure fair and
13 equitable contracts between dentists and health insurance carriers by
14 prohibiting insurance carriers from setting fees for services that are not
15 covered by the insurance carrier.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-121.5 as
17 follows:

18 **10-16-121.5. Prohibited contract provisions in contracts**
19 **between carriers and providers for dental services - definition.** (1) A
20 CONTRACT BETWEEN A CARRIER AND A DENTIST LICENSED TO PRACTICE
21 UNDER ARTICLE 35 OF TITLE 12 MUST NOT REQUIRE, DIRECTLY OR
22 INDIRECTLY, THAT A DENTIST WHO IS A PARTICIPATING PROVIDER PROVIDE

1 SERVICES TO A COVERED PERSON AT A FEE SET BY, OR SUBJECT TO THE
2 APPROVAL OF, THE CARRIER UNLESS:

3 (a) THE SERVICES ARE COVERED SERVICES UNDER THE PERSON'S
4 POLICY; AND

5 (b) THE CARRIER PROVIDES PAYMENT FOR THE SERVICES UNDER
6 THE PERSON'S POLICY IN AN AMOUNT THAT IS REASONABLE AND NOT
7 NOMINAL OR DE MINIMIS.

8 (2) THE DENTIST MAY CHARGE THE COVERED PERSON FOR
9 NONCOVERED ITEMS OR SERVICES IN ANY AMOUNT DETERMINED BY THE
10 DENTIST AND AGREED TO BY THE PATIENT THAT IS EQUAL TO, OR LESS
11 THAN, THE USUAL AND CUSTOMARY AMOUNT THAT THE DENTIST CHARGES
12 INDIVIDUALS WHO DO NOT HAVE COVERAGE FOR SUCH ITEMS AND
13 SERVICES.

14 (3) IF THE COMMISSIONER DETERMINES THAT A CARRIER HAS NOT
15 COMPLIED WITH THIS SECTION, THE COMMISSIONER SHALL INSTITUTE A
16 CORRECTIVE ACTION PLAN THAT THE CARRIER SHALL FOLLOW OR MAY USE
17 ANY OF THE COMMISSIONER'S ENFORCEMENT POWERS TO OBTAIN THE
18 CARRIER'S COMPLIANCE WITH THIS SECTION.

19 (4) FOR PURPOSES OF THIS SECTION, "COVERED SERVICES" MEANS
20 DENTAL CARE SERVICES FOR WHICH REIMBURSEMENT IS AVAILABLE UNDER
21 A COVERED PERSON'S PLAN CONTRACT, OR FOR WHICH A REIMBURSEMENT
22 WOULD BE AVAILABLE BUT FOR THE APPLICATION OF CONTRACTUAL
23 LIMITATIONS SUCH AS DEDUCTIBLES, COPAYMENTS, COINSURANCE,
24 WAITING PERIODS, ANNUAL OR LIFETIME MAXIMUMS, FREQUENCY
25 LIMITATIONS, ALTERNATIVE BENEFIT PAYMENTS, OR ANY OTHER
26 CONTRACTUAL LIMITATIONS.

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1 **SECTION 3. Act subject to petition - effective date -**
2 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
3 the expiration of the ninety-day period after final adjournment of the
4 general assembly (August 9, 2017, if adjournment sine die is on May 10,
5 2017); except that, if a referendum petition is filed pursuant to section 1
6 (3) of article V of the state constitution against this act or an item, section,
7 or part of this act within such period, then the act, item, section, or part
8 will not take effect unless approved by the people at the general election
9 to be held in November 2018 and, in such case, will take effect on the
10 date of the official declaration of the vote thereon by the governor.
11 (2) This act applies to contracts entered into on or after the
12 applicable effective date of this act.