SENATE . . . . . No. 2295

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

SENATE, July 18, 2019

The committee on Ways and Means to whom was referred the Senate Bill to increase consumer transparency about insurance provider networks (Senate, No. 610),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2295).

For the committee,
Michael J. Rodrigues

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An Act to increase consumer transparency about insurance provider networks.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 176O of the General Laws is hereby amended by adding the following section:-

Section 28. (a) A carrier shall ensure the accuracy of the information concerning each provider listed in the carrier's provider directories for each network plan and shall review and update the entire provider directory for each network plan. A provider directory that is electronically available shall: (i) be in a searchable format; and (ii) make accessible to the general public the current health care providers for a network plan through a clearly identifiable link or tab without requiring the general public to create or access an account, enter a policy or contract number, provide other identifying information or demonstrate coverage or an interest in obtaining coverage with the network plan. Each electronic network plan provider directory shall be updated not less than monthly; provided, however that an online network plan provider directory shall be updated more frequently than monthly if required by state or federal law or regulations promulgated by the commissioner, when informed of and upon confirmation by the plan of:

(i) a contracting provider no longer accepting new patients for that network plan or an individual provider within a provider group no longer accepting new patients;

(ii) a provider or provider group no longer being under contract for a particular network plan;

(iii) a change of a provider's practice location or of other information required under this section;

(iv) a provider's retirement or otherwise cessation of practice; or

(v) any other information that affects the content or accuracy of the provider directory or directories.

(b) A provider directory shall not list or include information on a provider who is not currently under contract with the network plan.

(c) A carrier shall periodically audit its provider directories for accuracy and retain documentation of the audit to be made available to the commissioner upon request.

(d) A carrier shall provide a print copy of the directory information of a current provider directory upon the request of an insured or a prospective insured. The print copy of the requested directory information shall be provided to the requester by mail postmarked not later than 5 business days after the date of the request and may be limited to the geographic region in which the requester resides or works or intends to reside or work.

(e) A carrier shall include in both the electronic and print formats of the directory a dedicated customer service email address and telephone number or electronic link that insureds, providers and the general public may use to notify the carrier of inaccurate provider directory

information. This customer service information shall be disclosed prominently in the directory and on the carrier's website. The carrier shall investigate reports of inaccuracies within 30 days of the notice and modify the directory in accordance with any findings within 30 days of the findings.

(f) A provider directory shall inform enrollees and potential enrollees that they are entitled to: (i) language interpreter services, at no cost to the enrollee; and (ii) full and equal access to covered services that are required under the federal Americans with Disabilities Act of 1990 and federal Section 504 of the Rehabilitation Act of 1973. A provider directory, whether in electronic or print format, shall accommodate the communication needs of individuals with disabilities and include a link to or information regarding available assistance for persons with limited English proficiency, including how to obtain interpretation and translation services.

(g) A carrier shall include a disclosure in the print format of the directory that the information included in the directory is accurate as of the date of printing and that an insured or prospective insured may consult the carrier's electronic provider directory on its website or call a specified customer service telephone number to obtain the most current provider directory information.

(h) A carrier shall update the print copies of the carrier's directory not less than annually; provided, however, that the carrier shall update the print directories more frequently than annually if required by federal law; and provided further, that the division may promulgate regulations requiring that the print directories be updated more frequently than annually.

(i) The division shall promulgate regulations to implement this section.

SECTION 2. (a) The division of insurance shall establish a task force to develop recommendations to ensure the current and accurate electronic posting of carrier provider directories in a searchable format for each of the carriers' network plans available for viewing by the general public.

(b) The task force shall consist of the commissioner of insurance or a designee, who shall serve as chair, and 12 members to be appointed by the commissioner, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Medical Society, 1 of whom shall be a representative of Healthcare Administrative Solutions, Inc., 1 of whom shall be a representative of the Children's Mental Health Campaign, 1 of whom shall be a representative of the Massachusetts Association for Mental Health, Inc., 1 of whom shall have expertise in the treatment of individuals with substance use disorder, 1 of whom shall have expertise in the treatment of individuals with a mental illness, 1 of whom shall be from a health consumer advocacy organization, 1 of whom shall be a consumer representative and 1 of whom shall be a representative from an employer group.

(c) The task force shall develop recommendations on establishing: (i) measures to ensure the accuracy of information concerning each provider listed in the carrier's provider directories for each network plan; (ii) substantially similar processes and time frames for health care providers included in a carrier's network to provide information to the carrier; and (iii) substantially similar processes and timeframes for carriers to include such information in their provider directories, when:

(1) a contracting provider is no longer accepting new patients for that network plan and when a contracting provider is resuming acceptance of new patients, or an individual provider within a provider group is no longer accepting new patients and when an individual provider within a provider group is resuming acceptance of new patients;

(2) a provider who is not accepting new patients is contacted by an enrollee or potential enrollee seeking to become a new patient; provided, however, that the provider may direct the enrollee or potential enrollee to the carrier for additional assistance in finding a provider and shall inform the carrier immediately, if the provider has not done so already, that the provider is not accepting new patients;

(3) a provider is no longer under contract for a particular network plan;

(4) a provider's practice location or other information required under this section has changed;

(5) for a health care professional, at least 1 of the following has changed: (A) name; (B) contact information; (C) gender; (D) participating office location; (E) specialty, if applicable; (F) clinical and developmental areas of expertise; (G) populations of interest; (H) licensure and board certification; (I) medical group affiliations, if applicable; (J) facility affiliations, if applicable; (K) participating facility affiliations, if applicable; (L) languages spoken other than English, if applicable; (M) whether accepting new patients; and (N) information on access for people with disabilities, including, but not limited to, structural accessibility and presence of accessible examination and diagnostic equipment;

(6) for a hospital, at least 1 of the following has changed: (A) hospital name; (B) hospital type; (C) participating hospital location and telephone number; (D) hospital accreditation status;

(7) for a facility other than a hospital, by type of facility, at least 1 of the following has changed: (i) facility name; (ii) facility type; (iii) types of services performed; (iv) participating facility location(s) and telephone number; and

(8) any other information that affects the content or accuracy of the provider directory has changed.

(d) For carriers, the task force shall develop recommendations on: (i) ways to include information in the provider directory that identify the tier level for each specific provider, hospital or other type of facility in the network, when applicable; (ii) ways to include consistent language across carries to assist insureds with understanding and searching for behavioral health specialty providers; (iii) the feasibility of carriers making real time updates to each online network plan provider directory when health care providers included in a carrier's network provide information to the carrier pursuant to recommendations under subsection (c); (iv) measures to address circumstances in which an insured reasonably relies upon materially inaccurate information contained in a carrier's provider directory; (v) measures for carriers to take to ensure the accuracy of the information concerning each provider listed in the carrier's provider directories for each network plan based on the information provided to the carriers by network providers pursuant to recommendations under subsection (c) including, but not limited to, periodic testing to ensure that the public interface of the directories accurately reflects the provider network, as required by state and federal law.

(e) The task force shall establish recommended timelines for carriers to complete each of the task force's recommendations.

(f) The task force shall file its recommendations, including any proposed regulations, with the clerks of the senate and house of representatives and the joint committee on health care financing not later than December 30, 2019.

SECTION 3. (a) The division of insurance shall promulgate regulations implementing section 28 of chapter 176O of the General Laws and regulations based on the recommendations of the task force established under section 2 not later than April 1, 2020.

(b) The commissioner of insurance shall publish quarterly reports on the progress of the implementation of the recommendations of the task force established under section 2. The first report shall be published on March 1, 2020 and the reports shall continue quarterly until the task force's recommendations are fully implemented.

SECTION 4. Carriers shall ensure the accuracy of the information pursuant to the regulations issued by the commissioner of insurance pursuant to this act for each network plan no later than July 1, 2020.