

PUBLIC ACTS, 1999

CHAPTER NO. 322

HOUSE BILL NO. 1536

By Representatives Kisber, Hargrove, Caldwell, Sherry Jones, McDaniel, Boyer, Walker, Buttry

Substituted for: Senate Bill No. 1381

By Senator Rochelle

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 32, relative to health maintenance organizations operating a TennCare line of business.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 32, is amended by adding the following new appropriately designated section:

Section _____. (a) It is the intent of this section to establish a procedure to verify that the health maintenance organizations and behavioral health organizations participating by contract in the TennCare program are delivering the health benefits required under their TennCare contracts with the State. This procedure shall also assure that each of these entities have adequate provider networks to ensure the effective and efficient delivery of healthcare services to TennCare enrollees.

(b) The Commissioner, with the advice and consent of the State Comptroller's Office, shall contract with an entity independent of the State of Tennessee to conduct annual reviews of organizations contracting with the State in the TennCare program. The contract shall be entered into in accordance with appropriate state procedures. The purpose of this contract shall be to verify, on an annual basis, that each health maintenance organization and behavioral health organization contracting with the State of Tennessee in the TennCare program is delivering health care services in conformity with the State's TennCare contract and applicable statutory authority. This annual review shall include verifying that each of these organizations maintains an adequate network. The standards for network adequacy are defined by the TennCare contract and applicable statutes and regulations. Nothing in this subsection precludes the expansion of the State's current contract with its External Quality Review Organization ("EQRO") to include having the EQRO conduct this review. The contractor shall submit all findings for each organization in writing to the Commissioner, the State Comptroller and the Director of the TennCare Bureau.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding a new section as follows:

For the purposes of regulation and oversight of health maintenance organizations that participate in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, and in addition to the powers and duties set forth in this title, the Department of Commerce and Insurance shall have the power to examine and investigate the affairs of every person, entity, health maintenance

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organization, an affiliate of the parent of the health maintenance organization, or an affiliate of the health maintenance organization, in order to determine whether the person, entity, health maintenance organization, an affiliate of the parent of the health maintenance organization, or an affiliate of the health maintenance organization, is operating in accordance with the provisions of this part and Title 71, Chapter 5.

SECTION 3. Tennessee Code Annotated, 56-32-202, is amended by adding two new subsections as follows:

(11) For the purposes of regulating a health maintenance organization ("HMO") that participates in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, "Affiliate" means any entity that exercises control over or is controlled by the HMO, directly or indirectly through:

(A) Equity ownership of voting securities;

(B) Common managerial control; or

(C) Collusive participation by the management of the HMO and affiliate in the management of the HMO or the affiliate.

(12) For the purposes of regulating an HMO that participates in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, "Person" includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation, agent, general agent, broker, solicitor, service representative, adjuster, and every legal entity.

SECTION 4. Tennessee Code Annotated, Section 56-32-217, is amended by adding a new subsection as follows:

(_) For the purposes of supervision, rehabilitation, or liquidation of health maintenance organizations that participate in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, and in addition to the powers and duties set forth in this part, the department or the chancery court shall have the power to examine and investigate the affairs of every person, entity, health maintenance organization, an affiliate of the parent of the health maintenance organization, or an affiliate of the health maintenance organization, in order to determine whether the person, entity, health maintenance organization, an affiliate of the parent of the health maintenance organization, or an affiliate of the health maintenance organization, is operating in accordance with the provisions of this part and Title 71, Chapter 5. For purposes of this subsection, "Affiliate" means any entity which exercises control over or is controlled by the HMO, directly or indirectly through:

(A) Equity ownership of voting securities;

(B) Common managerial control; or

(C) Collusive participation by the management of the HMO and affiliate in the management of the HMO or the affiliate.

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For purposes of this subsection, "Person" includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation, agent, general agent, broker, solicitor, service representative, adjuster, and every legal entity.

SECTION 5. Any costs associated with implementing the provisions of this act shall be paid for with funds that have been appropriated for purposes of administering the TennCare program.

SECTION 6. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding a new section as follows:

(1) For the purposes of regulation and oversight of health maintenance organizations that participate in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, and in addition to the powers and duties set forth in this Title, the Department of Commerce and Insurance shall have the power to examine and investigate any health maintenance organization, any affiliate or parent of a health maintenance organization, or any management company that contracts with a health maintenance organization, in order to determine whether a health maintenance organization is operating in accordance with the provisions of this part and Title 71, Chapter 5, and whether any other entity examined is acting in accordance with applicable law. Any information and documentation obtained by the department shall be considered confidential, unless the Commissioner in his sole discretion determines to make such information and documentation a matter of public record.

(2) The following definitions shall apply under this section:

(A) "Affiliate" shall have the same definition as set forth in Tennessee Code Annotated, Section 56-11-201, and the terms defined therein.

(B) "Control" shall have the same definition as set forth at Tennessee Code Annotated, Section 56-11-201, and the terms defined therein.

SECTION 7. Tennessee Code Annotated, Section 56-32-217, is amended by adding new subsections as follows:

(c) For the purposes of supervision, rehabilitation or liquidation of health maintenance organizations that participate in the TennCare program under Title XIX of the Social Security Act or any successor to the TennCare program, and in addition to the powers and duties set forth in this part, the Department or the Chancery Court shall have the power to examine and investigate any health maintenance organization, any affiliate or parent of a health maintenance organization, or any management company that contracts with a health maintenance organization, in order to determine whether the

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health maintenance organization is operating in accordance with the provisions of this part and Title 71, Chapter 5, and whether any other entity examined is acting in accordance with applicable law.

(d) The definitions below shall apply to any investigation conducted under subsection (c):

(A) "Affiliate" shall have the same definition as set forth in Tennessee Code Annotated, Section 56-11-201, and the terms defined therein.

(B) "Control" shall have the same definition as set forth at Tennessee Code Annotated, Section 56-11-201, and the terms defined therein.

SECTION 8. Nothing in this act shall be construed to designate as confidential any information required to be disclosed under the provisions of SB 1107/HB 810. If during an examination or investigation under the provisions of this act by the Department of Commerce and Insurance of a health maintenance organization, any affiliate or parent of a health maintenance organization, the department discovers that a disclosure required to be made under the provisions of SB 1107/HB 810 was not made, then the Commissioner shall disclose to the Commissioner of Health such information required under such act within fifteen (15) days of making such discovery.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 27, 1999


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 2nd day of June 1999


DON SUNDQUIST, GOVERNOR