

## CHAPTER 147

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**HEALTH AND ENVIRONMENT**


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**SENATE BILL 17-190**

BY SENATOR(S) Crowder and Moreno, Aguilar, Fields, Hill, Jones, Kagan, Kefalas, Merrifield, Todd, Williams A., Zenzinger; also REPRESENTATIVE(S) Gray, Buckner, Ginal, Benavidez, Esgar, Exum, Hamner, Hooton, Kennedy, Lebsock, Lee, Lontine, Mitsch Bush, Pettersen, Valdez, Weissman, Young, Duran.

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

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

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

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

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

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

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

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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

BY, OR SUBJECT TO THE APPROVAL OF, THE CARRIER UNLESS:

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

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

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

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

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

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

(2) This act applies to contracts entered into on or after the applicable effective date of this act.

Approved: April 24, 2017