

By Representative Fasano

1 A bill to be entitled
2 An act relating to managed care; providing
3 legislative intent; amending s. 641.315, F.S.;
4 prohibiting termination of a provider contract
5 except under certain circumstances; allowing
6 patients to disenroll in certain plans and
7 reenroll in other plans under certain
8 circumstances; amending s. 641.3903, F.S.;
9 prohibiting a health maintenance organization
10 from advertising availability of certain
11 providers under certain circumstances;
12 providing an exception; providing an effective
13 date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. It is the intent of the Legislature to
18 prohibit the use of "bait and switch" practices relating to
19 enrolling patients in managed care plans. The Legislature
20 finds that potential enrollees in a managed care plan often
21 choose a plan based upon whether their physician or other
22 health care provider is a provider available under the plan.
23 The Legislature also finds that managed care plans have
24 terminated providers following the closure of the enrollment
25 period to the detriment of the patients who are the
26 beneficiaries of the contracts between the managed care plans
27 and the providers of health care. The detriments include
28 choosing a new provider, which disrupts the continuity of
29 patient care, or requiring patients to pay for services out of
30 their own pockets that otherwise would have been paid for by
31 the managed care plan if the provider were still under

1 contract with the managed care plan. While continuity of care
2 under specified circumstances and point-of-service access to
3 nonnetwork providers under certain circumstances has been
4 previously addressed, the Legislature finds that there is a
5 need for further revision of the law in order to protect
6 patients. The Legislature finds that maintaining the
7 physician-patient relationship is an important state interest
8 and that the patient is the third-party beneficiary to the
9 contract between the managed care organization and the health
10 care practitioner. Additionally, the Legislature finds it to
11 be an unfair business practice to require enrollees in a
12 managed care plan to pay for services that would have been
13 covered under the plan had it not been for the disruption
14 caused by the termination of the provider contract.
15 Furthermore, it is the intent of the Legislature that
16 enrollees under a managed care plan should be able to change
17 managed care plans outside of the annual enrollment period if
18 there is a change in providers under a particular plan which
19 directly affects the enrollee or the enrollee's covered family
20 members.

21 Section 2. Subsection (11) is added to section
22 641.315, Florida Statutes, to read:

23 641.315 Provider contracts.--

24 (11) In order to protect a patient enrolled in or
25 covered by a health maintenance organization from a disruption
26 in the relationship between the patient and a contracted
27 health care practitioner, a health maintenance organization
28 may not terminate a contract, or modify reimbursement
29 arrangements under a contract, between the health maintenance
30 organization and a health care practitioner who is providing
31 health care to patients in the health maintenance organization

1 unless the health care practitioner's license has been
2 revoked, suspended, or placed on probation, or unless the
3 health care practitioner has been excluded as a provider of
4 Medicaid or Medicare as a result of a finding of fraud or
5 illegal billing practices. If a provider contract is
6 terminated or not renewed, a patient of that health care
7 practitioner may immediately disenroll in that health
8 maintenance organization and enroll in another health plan
9 without penalty to the patient.

10 Section 3. Subsection (13) of section 641.3903,
11 Florida Statutes, is amended to read:

12 641.3903 Unfair methods of competition and unfair or
13 deceptive acts or practices defined.--The following are
14 defined as unfair methods of competition and unfair or
15 deceptive acts or practices:

16 (13) MISREPRESENTATION IN HEALTH MAINTENANCE
17 ORGANIZATION; AVAILABILITY OF PROVIDERS.--Knowingly misleading
18 potential enrollees as to the availability of providers. A
19 health maintenance organization shall not advertise the
20 availability of any particular provider or group of providers
21 unless the particular provider or group of providers will be
22 available to provide care to enrollees and covered family
23 members for the entire duration of the coverage period.
24 However, an advertisement of availability of a particular
25 provider or group of providers who, subsequent to the
26 advertisement, has his or her or its license revoked or
27 suspended, or is excluded as a provider of Medicaid or
28 Medicare, and is thus no longer available to provide care to
29 enrollees for the remainder of the coverage period, is not
30 considered an unfair method of competition or an unfair or
31 deceptive act or practice.

