

of probate proceedings or the transfer or distribution of assets of the estate subject to such probate. Nothing in this section serves to extend the applicable statute of limitations regardless of the appointment or failure to have appointed a personal representative for an estate.

NEW SECTION. Sec. 2. The provisions of this 1983 amendatory act apply to causes of actions arising on or after the effective date of this act.

Passed the House April 22, 1983.

Passed the Senate April 18, 1983.

Approved by the Governor May 16, 1983.

Filed in Office of Secretary of State May 16, 1983.

CHAPTER 202

[Engrossed Substitute House Bill No. 667]

HEALTH CARE SERVICE CONTRACTORS AND AGENTS—HEALTH MAINTENANCE ORGANIZATIONS—REGULATION

AN ACT Relating to insurance; amending section 20, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.21.200; amending section 7, chapter 115, Laws of 1969 and RCW 48.44.011; amending section 6, chapter 115, Laws of 1969 and RCW 48.44.015; amending section 5, chapter 115, Laws of 1969 and RCW 48.44.095; amending section 11, chapter 115, Laws of 1969 and RCW 48.44.166; amending section 3, chapter 139, Laws of 1974 ex. sess. and RCW 48.44.212; amending section 9, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.080; amending section 12, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.110; adding a new section to chapter 48.17 RCW; adding a new section to chapter 48.44 RCW; adding new sections to chapter 48.46 RCW; repealing section 8, chapter 115, Laws of 1969 and RCW 48.44.045; repealing section 9, chapter 115, Laws of 1969, section 3, chapter 65, Laws of 1973 1st ex. sess. and RCW 48.44.162; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 7, chapter 115, Laws of 1969 and RCW 48.44.011 are each amended to read as follows:

(1) Agent, as used in this chapter, means any person appointed or authorized by a health care service contractor to solicit applications for health care service contracts on its behalf.

(2) No person shall act as or hold himself out to be an agent of a health care service contractor unless licensed as a disability insurance agent by this state and appointed by the health care service contractor on whose behalf solicitations are to be made.

(3) Applications, appointments, and qualifications for licenses, the renewal thereof, the fees and issuance of a license, and the renewal thereof shall be in accordance with the provisions of chapter 48.17 RCW that are applicable to a disability insurance agent.

(4) A person holding a valid license in this state as a health care service contractor agent on the effective date of this 1983 act is not required to requalify by an examination for the renewal of the license.

(5) The commissioner may revoke, suspend, or refuse to issue or renew any agent's license, or levy a fine upon the licensee, in accordance with those provisions of chapter 48.17 RCW that are applicable to a disability insurance agent.

Sec. 2. Section 6, chapter 115, Laws of 1969 and RCW 48.44.015 are each amended to read as follows:

(1) No person shall in this state, by mail or otherwise, act as or hold himself out to be a health care service contractor, as defined in RCW 48.44.010 without being duly registered therefor with the commissioner.

(2) The issuance, sale or offer for sale in this state of securities of its own issue by any health care service contractor domiciled in this state other than the memberships and bonds of a nonprofit corporation shall be subject to the provisions of chapter 48.06 RCW relating to obtaining solicitation permits the same as if health care service contractors were domestic insurers.

~~(3) ((On or after July 1, 1969, no person shall in this state act as or hold himself out to be an agent of a health care service contractor, as defined in RCW 48.44.011, unless then licensed therefor by this state: PROVIDED, That this subsection shall not apply to insurance agents or brokers licensed under chapter 48.17 RCW with authority to sell disability insurance.))~~ Any person violating any provision of subsection (1) or (2) of this section shall be liable to a fine of not to exceed ~~((five hundred))~~ one thousand dollars and imprisonment for not to exceed six months for each instance of such violation.

Sec. 3. Section 5, chapter 115, Laws of 1969 and RCW 48.44.095 are each amended to read as follows:

(1) Every health care service contractor shall annually, within one hundred twenty days of the closing date of its fiscal year, file with the commissioner a statement verified by at least two of the principal officers of the health care service contractor showing its financial condition as of the closing date of its fiscal year. The statement shall be in such form as is furnished or prescribed by the commissioner. ~~((A health care service contractor failing to make and file its annual statement in the form and within the time herein specified shall forfeit fifty dollars for each day during which such failure continues after written notification by the commissioner of such failure, and thirty days after the notice the commissioner may terminate the health care service contractor's authority to do new business while such default continues.))~~ The commissioner may for good reason allow a reasonable extension of the time within which such annual statement shall be filed.

(2) The commissioner may suspend or revoke the certificate of registration of any health care service contractor failing to file its annual statement when due or during any extension of time therefor which the commissioner, for good cause, may grant.

Sec. 4. Section 11, chapter 115, Laws of 1969 and RCW 48.44.166 are each amended to read as follows:

After hearing or upon stipulation by the registrant and in addition to or in lieu of the suspension, revocation or refusal to renew any registration of a health care service contractor (~~((or any licensed agent thereof))~~) the commissioner may levy a fine against the party involved for each offense in an amount not less than fifty dollars and not more than ~~((one))~~ ten thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the registration (~~((or license))~~) of the ~~((part involved))~~ registrant, if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

Sec. 5. Section 3, chapter 139, Laws of 1974 ex. sess. and RCW 48.44-.212 are each amended to read as follows:

(1) Any health care service plan contract under this chapter delivered or issued for delivery in this state more than one hundred twenty days after February 16, 1974, which provides coverage for dependent children of the insured or covered group member, shall provide coverage for newborn infants of the insured or covered group member from and after the moment of birth. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies of such infant children from the moment of birth.

(2) If payment of an additional premium is required to provide coverage for a child, the contract may require that notification of birth of a newly born child and payment of the required premium must be furnished to the contractor. The notification period shall be no less than ninety days from the date of birth. This subsection applies to policies issued or renewed on or after January 1, 1984.

NEW SECTION. Sec. 6. There is added to chapter 48.44 RCW a new section to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a domestic health care service contractor and no officer or director of a health care service contractor shall accept, except as agent for the health care service contractor, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale of health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health care service contractor, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health care service contractor directly upon

approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health care service contractor's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health care service contractor, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health care service contractor in the ordinary course of the health care service contractor's business and in the usual private professional or business capacity of the director or the corporation or firm.

NEW SECTION. Sec. 7. There is added to chapter 48.17 RCW a new section to read as follows:

The provisions of this chapter shall apply to agents of health care service contractors and health maintenance organizations.

NEW SECTION. Sec. 8. There is added to chapter 48.46 RCW a new section to read as follows:

(1) Agent, as used in this chapter, means any person appointed or authorized by a health maintenance organization to solicit applications for health care service agreements on its behalf.

(2) No person shall act as or hold himself out to be an agent of a health maintenance organization unless licensed as a disability insurance agent by this state and appointed or authorized by the health maintenance organization on whose behalf solicitations are to be made.

(3) Applications, appointments, and qualifications for licenses, the renewal thereof, the fees and issuance of a license, and the renewal thereof shall be in accordance with the provisions of chapter 48.17 RCW that are applicable to a disability insurance agent.

(4) A person holding a valid license in this state as a health maintenance organization agent on the effective date of this 1983 act is not required to requalify by an examination for the renewal of the license.

(5) The commissioner may revoke, suspend, or refuse to issue or renew any agent's license, or levy a fine upon the licensee, in accordance with those provisions of chapter 48.17 RCW that are applicable to a disability insurance agent.

NEW SECTION. Sec. 9. There is added to chapter 48.46 RCW a new section to read as follows:

(1) No person shall in this state, by mail or otherwise, act as or hold himself out to be a health maintenance organization as defined in RCW 48.46.020 without being duly registered therefor with the commissioner.

(2) The issuance, sale, or offer for sale in this state of securities of its own issue by any health maintenance organization domiciled in this state

other than the memberships and bonds of a nonprofit corporation shall be subject to the provisions of chapter 48.06 RCW relating to obtaining solicitation permits the same as if health maintenance organizations were domestic insurers.

(3) Any person violating any provision of subsection (1) or (2) of this section shall be liable to a fine of not to exceed one thousand dollars and imprisonment for not to exceed six months for each instance of such violation.

Sec. 10. Section 9, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.080 are each amended to read as follows:

(1) Every health maintenance organization shall annually, within one hundred twenty days of the closing date of its fiscal year, file with the commissioner a ~~((report, under oath, in accordance with the provisions of this chapter))~~ statement verified by at least two of the principal officers of the health maintenance organization showing its financial condition as of the closing date of its fiscal year.

(2) Such annual report shall be in such form as the commissioner shall prescribe and shall include:

(a) A financial statement of such organization, including its balance sheet and receipts and disbursements for the preceding year, which reflects at a minimum,

(i) all prepayments and other payments received for health care services rendered pursuant to health maintenance agreements;

(ii) expenditures to all categories of health care facilities, providers, insurance companies, or hospital or medical service plan corporations with which such organization has contracted to fulfill obligations to enrolled participants arising out of its health maintenance ~~((contracts))~~ agreements, together with all other direct expenses including depreciation, enrollment, and commission; and

(iii) expenditures for capital improvements, or additions thereto, including but not limited to construction, renovation, or purchase of facilities and capital equipment;

(b) The number of participants enrolled and terminated during the report period. Every employer offering health care benefits to their employees through a group contract with a health maintenance organization shall furnish said health maintenance organization with a list of their employees enrolled under such plan;

(c) A report of the names and addresses of all officers, directors, or trustees of the health maintenance organization during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals for services to such organization. For partnership and professional service corporations, a report shall be made for partners or shareholders as to any compensation or expense reimbursement received by them

for services, other than for services and expenses relating directly for patient care;

(d) Such other information relating to the performance of the health maintenance organization or the health care facilities or providers with which it has contracted as reasonably necessary to the proper and effective administration of this chapter, in accordance with rules and regulations; and

(e) Disclosure of any financial interests held by officers and directors in any providers associated with the health maintenance organization or any provider of the health maintenance organization.

(3) The commissioner may for good reason allow a reasonable extension of the time within which such annual statement shall be filed.

(4) The commissioner may suspend or revoke the certificate of registration of any health maintenance organization failing to file its annual statement when due or during any extension of time therefor which the commissioner, for good cause, may grant.

(5) No person shall knowingly file with any public official or knowingly make, publish, or disseminate any financial statement of a health maintenance organization which does not accurately state the health maintenance organization's financial condition.

Sec. 11. Section 12, chapter 290, Laws of 1975 1st ex. sess. and RCW 48.46.110 are each amended to read as follows:

(1) No health maintenance organization may refer to itself in its name or advertising with any of the words: "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business, or deceptively similar to the name or description of any insurance or surety corporation or health care service contractor or other health maintenance organization doing business in this state.

(2) No health maintenance organization, nor any health care facility or provider with which such organization has contracted to provide health care services, shall discriminate against any person from whom or on whose behalf, payment to meet the required charge is available, with regard to enrollment, disenrollment, or the provision of health care services, on the basis of such person's race, color, sex, religion, place of residence if there is reasonable access to the facility of the health maintenance organization, socio-economic status, or status as a recipient of medicare under Title XVIII of the Social Security Act, 42 U.S.C. section 1396, et seq.

(3) Where a health maintenance organization determines that an enrolled participant has received health care services to which such enrolled participant is not entitled under the terms of his health maintenance ((~~contract~~) agreement), neither such organization, nor any health care facility or provider with which such organization has contracted to provide health care services, shall have recourse against such enrolled participant for any amount above the actual cost of providing such service, if any, specified in such ((~~contract~~) agreement), unless the enrolled participant or a member of

his family has given or withheld information to the health maintenance organization, the effect of which is to mislead or misinform the health maintenance organization as to the enrolled participant's right to receive such services.

NEW SECTION. Sec. 12. There is added to chapter 48.46 RCW a new section to read as follows:

(1) Any health maintenance agreement under this chapter which provides coverage for dependent children of the enrolled participant shall provide the same coverage for newborn infants of the enrolled participant from and after the moment of birth. Coverage provided under this section shall include, but not be limited to, coverage for congenital anomalies of such children from the moment of birth.

(2) If payment of an additional premium is required to provide coverage for a child, the agreement may require that notification of birth of a newly born child and payment of the required premiums must be furnished to the health maintenance organization. The notification period shall be no less than ninety days from the date of birth. This subsection applies to agreements issued or renewed on or after January 1, 1984.

NEW SECTION. Sec. 13. There is added to chapter 48.46 RCW a new section to read as follows:

Every subscriber of an individual health maintenance agreement may return the agreement to the health maintenance organization or the agent through whom it was purchased within ten days of its delivery to the subscriber if, after examination of the agreement, the subscriber is not satisfied with it for any reason. The health maintenance organization shall refund promptly any fee paid for the agreement. An additional ten percent penalty shall be added to any premium refund due which is not paid within thirty days of return of the policy to the health maintenance organization or agent. Upon such return of the agreement, it shall be void from the beginning and the parties shall be in the same position as if no agreement had been issued. Notice of the provisions of this section shall be printed on the face of each such agreement or be attached thereto.

NEW SECTION. Sec. 14. There is added to chapter 48.46 RCW a new section to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a domestic health maintenance organization and no officer or director of a health maintenance organization shall accept, except as agent for the health maintenance organization, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale or health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health maintenance organization, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health maintenance organization

directly upon approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health maintenance organization's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health maintenance organization, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health maintenance organization in the ordinary course of the health maintenance organization's business and in the usual private professional or business capacity of the director or the corporation or firm.

NEW SECTION. Sec. 15. There is added to chapter 48.46 RCW a new section to read as follows:

After hearing or upon stipulation by the registrant and in addition to or in lieu of the suspension, revocation, or refusal to renew any registration of a health maintenance organization, the commissioner may levy a fine against the party involved for each offense in an amount not less than fifty dollars and not more than ten thousand dollars. The order levying such fine shall specify the period within which the fine shall be fully paid and which period shall not be less than fifteen nor more than thirty days from the date of such order. Upon failure to pay any such fine when due the commissioner shall revoke the registration of the registrant, if not already revoked, and the fine shall be recovered in a civil action brought on behalf of the commissioner by the attorney general. Any fine so collected shall be paid by the commissioner to the state treasurer for the account of the general fund.

Sec. 16. Section 20, chapter 266, Laws of 1975 1st ex. sess. and RCW 48.21.200 are each amended to read as follows:

(1) No group disability insurance policy which provides benefits for hospital, medical, or surgical expenses shall be delivered or issued for delivery in this state after September 8, 1975 which contains any provision whereby the insurer may reduce or refuse to pay such benefits otherwise payable thereunder solely on account of the existence of similar benefits provided under any individual disability insurance policy, or under any individual health care service contract.

(2) No group disability insurance policy providing hospital, medical or surgical expense benefits and which contains a provision for the reduction of benefits otherwise payable thereunder on the basis of other existing coverages, shall provide that such reduction will operate to reduce total benefits payable below an amount equal to one hundred percent of total allowable expenses. The commissioner shall by rule establish guidelines for the application of this section, including: (a) The procedures by which persons insured under such policies are to be made aware of the existence of such a provision; (b) the benefits which may be subject to such a provision; (c) the

effect of such a provision on the benefits provided; (d) establishment of the order of benefit determination; and (e) reasonable claim administration procedures to expedite claim payments under such a provision; PROVIDED, HOWEVER, That any group disability insurance policy which is issued as part of an employee insurance benefit program authorized by RCW 41.05.025(3) may exclude all or part of any deductible amounts from the definition of total allowable expenses for purposes of coordination of benefits within the plan and between such plan and other applicable group coverages; AND PROVIDED FURTHER, That any group disability insurance policy providing coverage for persons in this state may exclude all or part of any deductible amounts required by a group disability insurance policy from the definition of total allowable expenses for purposes of coordination of benefits between such policy and a group disability insurance policy issued as part of an employee insurance benefit program authorized by RCW 41.05.025(3).

(3) The provisions of this section shall apply to health care service contractor contracts and health maintenance organization agreements.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) Section 8, chapter 115, Laws of 1969 and RCW 48.44.045; and
- (2) Section 9, chapter 115, Laws of 1969, section 3, chapter 65, Laws of 1973 1st ex. sess. and RCW 48.44.162.

Passed the House April 23, 1983.

Passed the Senate April 20, 1983.

Approved by the Governor May 16, 1983.

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CHAPTER 203

[House Bill No. 765]

INDUSTRIAL INSURANCE BENEFIT ADJUSTMENTS

AN ACT Relating to industrial insurance; and amending section 2, chapter 286, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 20, Laws of 1982 1st ex. sess. and RCW 51.32.075.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 286, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 20, Laws of 1982 1st ex. sess. and RCW 51.32.075 are each amended to read as follows:

The compensation or death benefits payable pursuant to the provisions of this chapter for temporary total disability, permanent total disability, or death arising out of injuries or occupational diseases shall be adjusted as follows: