



Testimony Suggesting Amendments to LD 1713

An Act to Prohibit Certain Provisions in Health Care Provider Contracts with Insurance Carriers

Senator Bailey, Representative Mathieson and Honorable Members of the HCIFS Committee:

My name is Gwen Simons. I am the lobbyist for the Maine Chapter of the American Physical Therapy Association ("MEAPTA"). The Maine APTA represents over 2500 physical therapists (PTs) and physical therapist assistants (PTAs) in Maine.

LD 1713 affects small independent private practitioners as well as hospitals. In the private practice context, it is the carriers who are forcing All or Nothing contracts on the providers. As written, LD 1713 protects carriers from hospitals and providers but does not protect providers from the same harmful business conduct by carriers. Therefore, MEAPTA would like to ask this committee to amend LD 1713 to make it reciprocal so that it applies to carriers as well, including the Enforcement section. A copy of our suggested amendments is attached to this written testimony.

In addition, we suggest you define "Affiliate" for both carriers and providers.

Thank you for your consideration. If you need any additional information, please feel free to contact me.

Respectfully,

Gwen Simons, Esq. PT, OCS, FAAOMPT

Gwen Simons, Esq, PT, OCS, FAAOMPT
Lobbyist, Maine Chapter APTA
gwen@simonsassociateslaw.com
207.205.2045

An Act to Prohibit Certain Provisions in Health Care Provider Contracts with Insurance Carriers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1730-A is enacted to read:

§1730-A. Health care provider contract requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "All-or-nothing clause" means a provision in a contract that:

- (1) Requires a carrier to include all members of a provider or provider group practice in a network plan;
- (2) Requires a carrier or provider to enter into any additional contracts with any or all affiliates of a carrier or provider as a condition of entering into a contract with that carrier or provider; or
- (3) Requires a carrier to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

B. "Anti-steering clause" means a provision in a contract that restricts the ability of a carrier to direct or steer an enrollee to obtain a health care service from another provider, including offering incentives to encourage enrollees to use specific providers.

C. "Anti-tiering clause" means a provision in a contract that:

- (1) Restricts the ability of a carrier to introduce or modify a tiered network plan or assign providers into tiers;
- (2) Requires a carrier or health plan administrator to place all members of a provider in the same tier of a tiered network plan; or
- (3) Restricts the ability of a carrier to introduce or assign providers to a particular network.

D. "Carrier" has the same meaning as in Title 24-A, section 4301-A, subsection 3.

E. "Enrollee" has the same meaning as in Title 24-A, section 4301-A, subsection 5.

F. "Health plan" has the same meaning as in Title 24-A, section 4301-A, subsection 7.

G. "Provider" has the same meaning as in Title 24-A, section 4301-A, subsection 16.

2. Contract requirements. Beginning January 1, 2026, a provider or carrier, or a person acting on the provider's or carrier's behalf, may not offer, solicit, request, amend, renew or enter into a contract between a carrier and a provider with a carrier that would directly or indirectly include any of the following provisions:

- A. An anti-steering clause;
- B. An anti-tiering clause; or
- C. An all-or-nothing clause.

3. Unenforceable. A carrier, provider or person representing a carrier or provider may not enforce any contract provision, written policy, written procedure or agreement contrary to the provisions set forth in this section.

4. Enforcement. The following provisions apply to enforcement of this section.

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A. A carrier or provider may institute a civil action against a carrier or provider to enforce the provisions of subsection 2, including specific performance, injunctive or declaratory relief, and any other relief the court considers appropriate.

B. The Attorney General may:

(1) Subpoena any records necessary to enforce this section or to investigate suspected violations of this section; and

(2) Institute proceedings on behalf of the State or as parens patriae of the persons residing in this State for:

(a) Injunctive relief to prevent and restrain a violation of this section, including, but not limited to, a temporary restraining order, preliminary injunction or permanent injunction;

(b) Civil penalties for violations of this section not to exceed \$100,000 per violation; or

(c) Other equitable relief for violations of this section.

Sec. 2. 24-A MRSA §4308-A is enacted to read:

§4308-A. Health care provider contract requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "All-or-nothing clause" means a provision in a contract that:

(1) Requires a carrier to include all members of a provider in a network plan;

(2) Requires a carrier to enter into any additional contract with any or all affiliates of a provider as a condition of entering into a contract with that provider; or

(3) Requires a carrier to agree to payment rates or other terms for an affiliate or individual facility that is not party to the contract.

B. "Anti-steering clause" means a provision in a contract that restricts the ability of a carrier to direct or steer an enrollee to obtain a health care service from another provider, including offering incentives to encourage enrollees to use specific providers.

C. "Anti-tiering clause" means a provision in a contract that:

(1) Restricts the ability of a carrier to introduce or modify a tiered network plan or assign providers into tiers;

(2) Requires a carrier to place all members of a provider in the same tier of a tiered network plan; or

(3) Restricts the ability of a carrier to introduce or assign providers to a particular network.

2. Contract requirements. Beginning January 1, 2026, a carrier, provider or a person acting on the carrier's or provider's behalf, may not offer, solicit, request, amend, renew or enter into a contract between a carrier and a provider with a provider that would directly or indirectly include any of the following provisions:

A. An anti-steering clause;

B. An anti-tiering clause; or

C. An all-or-nothing clause.

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3. Unenforceable. A carrier, provider or person representing a carrier or provider may not enforce any contract provision, written policy, written procedure or agreement contrary to the provisions set forth in this section.

4. Enforcement. A carrier or provider may institute a civil action to enforce the provisions of this section, including specific performance, injunctive or declaratory relief, and any other relief the court considers appropriate.

SUMMARY

Beginning January 1, 2026, this bill prohibits contractual agreements between health insurance carriers and health care providers that include:

1. Provisions restricting the ability of a health insurance carrier to encourage enrollees to use specific health care providers or to use tiering as part of a carrier's provider network; or
2. Provisions requiring a health insurance carrier to include all members or affiliates of a health care provider in a carrier's network.