

[N.H. Rev. Stat. Ann. §§ 420-I:1 through 420-I:7.]

§ 420-I:1 Definitions: Prohibition of Exclusive Arrangements with Managed Care Insurers

In this chapter:

I. An "affiliate" of a specific person means any person directly or indirectly controlling, controlled by or under common control with such specific person.

II. "Exclusive arrangement" means any agreement, contract, combination or conspiracy, including, without limitation, acquisition, purchase, affiliation or consulting agreements with medical practitioners or group practices and contracts of employment, between a managed care insurer and any person or persons which has the purposes or effect of:

(a) Committing any person providing physician services to accept and treat as patients the subscribers to or participants in a managed care plan to the exclusion of persons who have coverage from any or all other managed care insurers;

(b) Providing reimbursement on sliding scales, capitation rates, payment schedules or other payment arrangements as a financial incentive for persons providing physician services to restrict treatment of persons who have coverage from some or all other managed care insurers; or

(c) Providing reimbursement on sliding scales, capitation rates, payment schedules or other payment arrangements which contain a financial disincentive for failing to restrict treatment of persons who have coverage through any or all other managed care insurers.

III. "Managed care" means any arrangement for the provision of physician services which is characterized by some measure of risk-sharing through capitated or other shared-risk compensation formulae, and which are characterized by the establishment and maintenance of a provider network available to subscribers or participants, and which provides incentives for subscribers or participants to use that network for covered services, and which ordinarily limit coverage or the extent of such coverage to physician services provided by that network. "Managed care" shall include any managed care products or services or similar products including but not limited to those governed by RSA 415, RSA 419, RSA 420, RSA 420-A, RSA 420-B and RSA 420-C.

IV. "Managed care insurer" means a person offering or underwriting managed care and any affiliate thereof.

V. "Managed care plan" means any medical insurance plan offering or underwriting managed care.

VI. "Person" includes natural persons, trusts, corporations, limited liability companies, partnerships, limited partnerships, proprietorships, incorporated or unincorporated associations, and any other legal entity, and any and all of their affiliates.

§ 420-I:2 Prohibition of Exclusive Arrangements: Prohibition of Exclusive Arrangements with Managed Care Insurers

I. No managed care insurer may enter into any new exclusive arrangement or renew any exclusive arrangement with any person on or after the effective date of this act.

II. No managed care insurer shall maintain exclusive arrangements or engage in any act or practice that would result in exclusive arrangements with any person, except in accordance with paragraph III of this section, on or after June 30, 1997.

III. The provisions of paragraph II of this section shall not apply to physicians employed by a managed care insurer until June 30, 1999.

§ 420-I:3 Penalties: Prohibition of Exclusive Arrangements with Managed Care Insurers

In addition to those actions authorized under RSA 420-B:13, the commissioner may impose a penalty on any managed care insurer of not more than \$2,500 for each day such managed care insurer shall be a party to a contract, arrangement, conspiracy, act or practice declared unlawful under RSA 420-I:2.

§ 420-I:4 Reports to Insurance Commissioner: Prohibition of Exclusive Arrangements with Managed Care Insurers

Each managed care insurer shall file a report in form and containing such information as the insurance commissioner prescribes when requested by the commissioner. Such report shall include the name of the managed care insurer, its affiliates, a description of each exclusive arrangement to which it is a party and, as applicable, the date on which exclusive arrangement has been or will be terminated.

§ 420-I:5 Effect on Current Contracts: Prohibition of Exclusive Arrangements with Managed Care Insurers

No person who is party to an exclusive arrangement on the effective date of this chapter shall renew or extend any such exclusive arrangement after the effective date of this act. No provision of any contract or agreement establishing an exclusive arrangement shall be effective after the earliest date on which any party to the arrangement may terminate the exclusive nature of the arrangement. All exclusive arrangements shall be unlawful on and after the date set out at RSA 420-I:2, II. Any exclusive arrangement entered into, extended or maintained in violation of this chapter shall be void and unenforceable.

§ 420-I:5 Effect on Current Contracts: Prohibition of Exclusive Arrangements with Managed Care Insurers

No person who is party to an exclusive arrangement on the effective date of this chapter shall renew or extend any such exclusive arrangement after the effective date of this act. No provision of any contract or agreement establishing an exclusive arrangement shall be effective after the earliest date on which any party to the arrangement may terminate the exclusive nature of the arrangement. All exclusive arrangements shall be unlawful on and after the date set out at RSA 420-I:2, II. Any exclusive arrangement entered into, extended or maintained in violation of this chapter shall be void and unenforceable.

§ 420-I:6 Limitation on Termination of Patient Relations: Prohibition of Exclusive Arrangements with Managed Care Insurers

No exclusive arrangement between a managed care insurer and any person shall require a primary care physician to terminate any existing patient relationship with an individual who is covered by another managed care insurer. The physician shall continue to offer to provide services to existing patients for at least 5 years from the commencement date of this exclusive relationship or the effective date of the change of coverage, whichever is later. During such period, the physician will be reimbursed by the managed care insurer covering the patient at a rate which is not more than the highest rate paid by the insurer for similar services in the same service area.

§ 420-I:7 Provisions Severable: Prohibition of Exclusive Arrangements with Managed Care Insurers

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid for any reason, such invalidity shall not affect any other provision or application of this chapter which may be effected without the invalid provision or application.