

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 388
99TH GENERAL ASSEMBLY

1075H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 376, RSMo, by adding thereto two new sections relating to the Missouri freedom to choose health care act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 376.389 and 376.1426, to read as follows:

**376.389. 1. The provisions of this section and section 376.1426 shall be known and
2 may be cited as the "Missouri Freedom to Choose Health Care Act".**

3 2. As used in this section, the following terms shall mean:

**4 (1) "Health carrier", the same meaning as such term is defined under section
5 376.1350;**

**6 (2) "Provider", the same meaning as such term is defined under section 376.1350
7 and, in addition, orthotic and prosthetic services and home health agencies.**

**8 3. On or before December 31, 2017, and on or before December thirty-first each
9 year thereafter, each health carrier shall submit to the department a list of the Medicare
10 rates or capitated rates for covered services, either statewide or by geographic area. The
11 director shall post the information submitted on the department's website. The
12 department shall ensure that the website and information are easy to navigate, contain
13 consumer-friendly language, and fulfill the intent of this section. Such reimbursement
14 rates shall reflect the current payment rates for all goods and services pertinent to the
15 provider's practice or business, defined by procedure codes, by diagnosis-related groups,
16 or by another payment mechanism. All contracted providers shall be paid for the goods
17 and services provided at such rates unless different rates have been specifically agreed
18 upon contractually with an individual provider. In no case shall the reimbursement rate**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 include a rate for a specific good or service that is less than the lowest rate individually
20 contracted for by the providers of such good or service in the applicable geographic area
21 if all the providers in such area have individually contracted to be paid at different rates
22 for such good or service.

23 4. No health carrier or any of its subsidiaries, networks, contractors, or
24 subcontractors shall refuse to contract with any Missouri provider who is willing to meet
25 the terms and conditions for provider participation established for such health benefit
26 plan, including the MO HealthNet and Medicare programs, if such provider is willing, as
27 a term of such contract, to be paid at rates equal to the Medicare rates or capitated rates
28 provided under subsection 3 of this section.

29 5. The department may promulgate rules to implement the provisions of this
30 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
31 created under the authority delegated in this section shall become effective only if it
32 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
33 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
34 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
35 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
36 grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,
37 shall be invalid and void.

38 6. The provisions of this section shall not apply to voluntary insurance products,
39 which are policies paid directly to the policyholder in cash benefits.

376.1426. 1. Every health care provider making a referral of a patient to a medical
2 facility for health care services shall fully inform the patient of every medical facility at
3 which the health care provider has privileges to provide the services for which the patient
4 is being referred and that is medically appropriate for the provision of such services. In
5 accordance with the options provided to a patient under this section, a health care provider
6 shall provide the health care services at the medical facility of a patient's choosing.

7 2. No referral by a provider or selection of facility by a patient shall be required or
8 otherwise restricted by a health carrier or health benefit plan if the medical facility
9 referred and selected by a patient is medically appropriate for the health care service to
10 be provided.

11 3. No health carrier or health benefit plan shall discriminate between medically
12 appropriate facilities within the state of Missouri regarding benefit coverage for provider
13 services for the same health care service.

14 4. Notwithstanding any other provision of law, any health carrier that authorizes
15 any claim for reimbursement for a health care service provided or to be provided in this

16 state to be paid shall make full payment on such claim. A health carrier shall not authorize
17 payment for health care services in this state and then refuse to pay for such services or
18 refuse to pay the full amount that it authorized.

19 5. Any health care provider, health carrier, or health benefit plan shall be subject
20 to licensure sanction for failure to comply with the provisions of this subsection.

21 6. "Health care provider", "health carrier", "health benefit plan", and "health
22 care service" shall have the same meanings given to such terms under section 376.1350.

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