

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 405
100TH GENERAL ASSEMBLY

1080H.02C

DANA RADEMAN MILLER, 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, 2019, 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 Medicare program, if such provider is willing, as a term of such**
27 **contract, to be paid at rates equal to the Medicare rates or capitated rates provided under**
28 **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, 2019,**
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.**

40 **7. The provisions of this section shall not apply to the MO HealthNet program.**

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 section.**

21 **6. The provisions of this section shall not apply to the MO HealthNet program.**

22 **7. For the purposes of this section, "health care provider", "health carrier",**
23 **"health benefit plan", and "health care service" shall have the same meanings given to**
24 **such terms under section 376.1350.**

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