

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 1175 (Delegate Kach)  
Health and Government Operations

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**Health Insurance - Provider Contracts - Conditions of Participation with Carriers**

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This bill alters provider contract provisions that require health care providers to participate on one or more provider panels.

The bill takes effect June 1, 2008.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in special fund expenditures for the Maryland Insurance Administration to review revised contracts for compliance with the bill. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The bill repeals provisions prohibiting a carrier that offers coverage through a health benefit plan from requiring a provider, as a condition of participation or continuation on a provider panel for one of the carrier's health benefit plans, to also serve on a provider panel for another of the carrier's health benefit plans. The bill also repeals the exception that allows a carrier that offers health services as a Medicaid managed care organization to require a provider, as a condition of participation on a provider panel for one or more of the carrier's health benefit plans, to serve on an MCO provider panel as well.

The bill specifies instead that a provider contract may not contain a provision that requires a provider, as a condition of participation with a carrier, to participate with a different carrier. The prohibition does not apply to • a carrier that offers health care services as an MCO, which may require that a provider participate in multiple provider panels; or • a provider contract that does not have lower rates of reimbursement than the carrier and reimburses the provider on the same basis as the carrier, either fee-for-service or capitated.

A “provider contract” is a contract between the provider and a carrier, a carrier affiliate, or an entity that contracts with a provider to serve a carrier. A carrier is responsible for a violation of any provision of the bill, regardless of whether the carrier has subcontracted with an affiliate or entity that contracts with a provider.

**Current Law:** A carrier that offers coverage for or contracts with providers to offer health care services through one or more health benefit plans, may not require a provider, as a condition of participation, to also serve on a provider panel of another of the carrier’s health benefit plans. An exception is made for a carrier that also serves as a Medicaid MCO. This type of carrier may require a provider, as a condition of participation on a provider panel, to serve on an MCO provider panel.

Chapter 505 of 2007 established the Task Force on Health Care Access and Reimbursement. The task force is required to examine the practice by certain carriers of requiring providers who join a provider network of a carrier to also serve on a provider network of a different carrier and the effect of this practice. The task force’s interim report must contain a recommendation on whether carriers should be prohibited from requiring providers who join the carrier’s network to also serve in another carrier’s network.

**Background:** Carriers began requiring certain health care providers, as a condition of participating on one panel, to participate on others, which may have caused administrative or financial burdens for certain providers. As a result, Chapters 253 and 254 of 2000 prohibited carriers from requiring provider panel participation. However, some carrier affiliates or entities that arrange provider panels have been requiring provider participation on more than one provider panel.

The Task Force on Health Care Access and Reimbursement issued its interim report on January 28, 2008. The report notes that, while the task force debated prohibiting carriers from requiring participation with another carrier as a condition in a provider contract, it did not vote on whether carriers should be prohibited from imposing participation in

another carrier's network as a condition under a provider contract. After hearing all perspectives, the task force determined that the issue required further study.

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### **Additional Information**

**Prior Introductions:** This bill is identical to SB 749 of 2007 as it passed the Senate. SB 749 was further amended by the House but was not enacted. No action was taken on its cross file, HB 1054 of 2007.

**Cross File:** None designated, although SB 611 is identical.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Budget and Management, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2008  
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