



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



3

226 Anne Dallas Dudley Blvd., Suite 508
Nashville, Tennessee 37243-0760
Phone: (615) 741-3012
Fax: (615) 532-2443
www.tn.gov/tacir

MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 16 January 2020

SUBJECT: Public Chapter 407, Acts of 2019 (Right to Shop)—Panel

Public Chapter 407, Acts of 2019, directs the Commission to study any cost savings realized by enrollees with health insurance plans in states that have adopted legislation or programs that require insurance carriers offering health plans in those states to offer incentive programs to enrollees for shopping for healthcare services at lower costs. The study shall include, at a minimum, an examination of savings realized by such programs in Maine, New Hampshire, Florida, Arizona, and Kentucky. The legislation requires the Commission to report its findings by December 2020.

The Act requires insurers to provide information that enables the insured to shop around for the best price on medical services and authorizes insurers to offer incentive programs to reward the insured for choosing lower cost services. The types of programs authorized by the law, ones where carriers offer health plans that include incentives to enrollees for shopping for healthcare services at lower costs, are commonly referred to as “Right to Shop” programs. Right to Shop programs are meant to address rising health care costs by encouraging the insured to switch to lower cost service providers. In these programs, the insurer provides relevant price information on medical services so the insured can shop around for the best price. If the insured chooses to receive services from a provider at a price that is less than the average price for a service, then that person usually will receive a check from the insurer that is a percentage of the saved cost, usually \$25-\$500.

Public Chapter 407, Acts of 2019, makes adoption of Right to Shop programs by insurers optional, stating, “Beginning on January 1, 2021, a carrier may provide

incentives for enrollees in a health plan who elect to receive a comparable healthcare service from a network provider that is covered by the health plan and that is paid less than the average allowed amount paid by that carrier to network providers for that comparable healthcare service before and after an enrollee's out-of-pocket limit has been met.” While the incentive programs are optional, the legislation does require that beginning “upon approval of the next health insurance rate filing on or after January 1, 2021, a carrier offering a health plan in this state shall implement a shopping and decision support program that provides shopping capabilities and decision support services for enrollees in a health plan.” Further, the law says “Incentives, effective January 1, 2021, may be calculated as a percentage of the difference between the amount actually paid by the carrier for a given comparable healthcare service and the average allowed amount for that service. Incentives may be provided as a cash payment to the enrollee, a credit toward the enrollee's annual in-network deductible and out-of-pocket limit, or a credit or reduction of a premium, a copayment, cost sharing, or a deductible.” The total value of incentives offered to any one enrollee must not exceed \$599 in any year.

Today the Commission will hear from three experts with knowledge of the issue:

- Josh Archambault, Senior Fellow, Foundation for Government Accountability
- Jenny Goins, Commissioner, Department of Employee Insurance, Kentucky Personnel Cabinet
- Nathan Ridley, Attorney, Bradley Arant Boult Cummings LLP