

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("the Department") on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

Kentucky Department of Insurance

Advisory Opinion 2000-01

In re: Providers Protected Under the Any Willing Provider Law

RELEVANT FACTS AND STATUTES: Questions have emerged concerning who is protected under KRS 304.17A-270, Kentucky's any willing provider law. The statutes that are relevant are KRS 304.17A-270, KRS 304.17A-250, KRS 304.17A-005(18), 806 KAR 17:180.

KRS 304.17A-250 required the commissioner to, "... by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998." In 806 KAR 17:180 the Department established the standard health benefit plan.

DEPARTMENT'S POSITION: It is the Department's position that the providers specifically listed in KRS 304.17A-005(18) that are willing to meet the health benefit plan's terms and conditions must be allowed to participate as a network provider. Every health benefit plan issued by an insurer must comply with the any willing provider law in relation to these providers. However, if a person is not specifically licensed as cited in KRS 304.17A-005(18) that person is not a provider for purposes of the any willing provider law.

In contrast, all the providers listed in the definition of provider in the standard health benefit plan, as defined in 806 KAR 17:180, must be allowed to participate as a network provider for the standard health benefit plan.

The Department, in developing the standard health benefit plan, sets the standards under which the plan is to operate. For this reason, the Department is of the opinion that all providers listed in the definition of provider found in the standard health benefit plan must be allowed to participate with that plan. Therefore, any such provider cannot be excluded from rendering services under the standard health benefit plan unless the provider does not meet any standards developed pursuant to KRS 304.17A-525.

Any questions regarding this matter may be directed to Shaun T. Orme, Counsel for the Department at (502) 564-6032.

George Nichols III, Commissioner

Kentucky Department of Insurance