

(6) (4) PREFERRED PROVIDER POLICIES OR PREFERRED PROVIDER CONTRACTS OFFERED UNDER THIS SECTION SHALL PROVIDE FOR PAYMENT OF SERVICES RENDERED BY NONPREFERRED PROVIDERS. UNLESS THE NONPROFIT HEALTH SERVICE PLAN DEMONSTRATES TO THE SATISFACTION OF THE INSURANCE COMMISSIONER THAT AN ALTERNATIVE LEVEL OF PAYMENT IS MORE APPROPRIATE UNDER THE CIRCUMSTANCES, ANY PAYMENT MADE UNDER THIS PARAGRAPH MAY NOT BE LESS THAN 80% OF THE AVERAGE--PAYMENTS AMOUNT THAT WOULD HAVE BEEN PAID TO PREFERRED PROVIDERS FOR SIMILAR SERVICES IN THE SAME GEOGRAPHIC AREA.

(C) IF THE RATES FOR EACH INSTITUTIONAL PROVIDER UNDER A PREFERRED PROVIDER POLICY OR PREFERRED PROVIDER CONTRACT VARY BASED UPON INDIVIDUAL NEGOTIATIONS, GEOGRAPHIC DIFFERENCES, OR MARKET CONDITIONS AND ARE APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION, THE RATES MAY NOT BE DEEMED TO CONSTITUTE UNFAIR DISCRIMINATION UNDER THIS ARTICLE.

(D) THIS SECTION DOES NOT APPLY TO ANY EMPLOYEE BENEFIT PLAN REGULATED BY FEDERAL LAW OR BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA).

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(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "PREFERRED PROVIDER POLICIES OR PREFERRED PROVIDER CONTRACTS" MEANS INSURANCE POLICIES OR INSURANCE CONTRACTS WHICH SPECIFY THE SERVICES AND HOW SERVICES ARE TO BE COVERED WHEN RENDERED BY PREFERRED AND NONPREFERRED PROVIDERS.

(3) "PREFERRED PROVIDER" MEANS A PROVIDER WHO HAS CONTRACTED WITH AN INSURER TO MEET THE TERMS AND CONDITIONS OFFERED IN THE PREFERRED PROVIDER POLICY OR PREFERRED PROVIDER CONTRACT.

(4) "PROVIDER" MEANS ANY PERSON, INCLUDING A PHYSICIAN OR HOSPITAL, WHO IS LICENSED OR OTHERWISE AUTHORIZED TO PROVIDE HEALTH CARE SERVICES, WITHIN THE SCOPE OF THE LICENSE OR AUTHORIZATION.

(5) "NONPREFERRED PROVIDER" MEANS A PROVIDER ELIGIBLE FOR PAYMENT UNDER A PREFERRED PROVIDER POLICY OR PREFERRED PROVIDER CONTRACT, WHO IS NOT A CONTRACTEE UNDER THE PROVISIONS OF THE INSURANCE POLICY OR INSURANCE CONTRACT.

(6) "UNFAIR DISCRIMINATION" MEANS ANY ACT, METHOD OF COMPETITION, OR PRACTICE ENGAGED IN BY AN INSURER, WHICH IS PROHIBITED BY §§ 217 THROUGH 234, INCLUSIVE, OF THIS SUBTITLE OR ANY ACT, METHOD OF COMPETITION, OR PRACTICE NOT SPECIFIED IN §§ 217 THROUGH 234, INCLUSIVE, THAT THE COMMISSIONER BELIEVES IS UNFAIR OR DECEPTIVE AND WHICH RESULTS IN THE INSTITUTION OF AN ACTION BY THE COMMISSIONER UNDER § 216 OF THIS SUBTITLE.