

(B) (1) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, ONE OR MORE-INSURERS AN INSURER, INCLUDING ANY NONPROFIT HEALTH SERVICE PLAN SPECIFIED UNDER SUBTITLE 20 OF THIS ARTICLE, MAY OFFER OR ADMINISTER A HEALTH BENEFIT PROGRAM UNDER WHICH THE INSURER OR INSURERS MAY OFFER PREFERRED PROVIDER POLICIES OR PREFERRED PROVIDER CONTRACTS THAT LIMIT THE NUMBERS AND TYPES OF PROVIDERS OF HEALTH CARE SERVICES ELIGIBLE FOR PAYMENT AS PREFERRED PROVIDERS UNDER THE INSURANCE POLICIES OR INSURANCE CONTRACTS.

(2) ANY-INSURER-OR-INSURERS AN INSURER MAY ESTABLISH TERMS AND CONDITIONS THAT SHALL BE MET BY A PROVIDER IN ORDER TO QUALIFY FOR PAYMENT AS A PREFERRED PROVIDER UNDER THE INSURANCE POLICIES OR INSURANCE CONTRACTS.

~~(3) A PROVIDER THAT AGREES TO THE TERMS AND CONDITIONS OFFERED BY THE INSURER UNDER THE TERMS OF THE PREFERRED PROVIDER CONTRACT OR POLICY MAY NOT BE EXCLUDED.~~

~~(4) THE TERMS AND CONDITIONS OF PREFERRED PROVIDER POLICIES OR CONTRACTS MAY NOT UNFAIRLY DISCRIMINATE AGAINST OR AMONG HEALTH CARE PROVIDERS.~~

~~(5) PROVIDERS OF SERVICE OTHER THAN PHYSICIANS SHALL HAVE THE SAME OPPORTUNITY TO QUALIFY FOR PAYMENT AS A PREFERRED PROVIDER UNDER THE POLICIES OR CONTRACTS AS DO PHYSICIANS.~~

(5) (3) IF A PREFERRED PROVIDER POLICY OR PREFERRED PROVIDER CONTRACT PROVIDES FOR REIMBURSEMENT FOR ANY SERVICE THAT IS WITHIN THE LAWFUL SCOPE OF PRACTICE OF A HEALTH CARE PROVIDER LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE, ANY PARTICIPANT, BENEFICIARY, OR OTHER PERSON COVERED BY THE INSURANCE POLICY OR INSURANCE CONTRACT SHALL BE ENTITLED TO REIMBURSEMENT FOR THAT SERVICE.

(6) (4) PREFERRED PROVIDER POLICIES OR PREFERRED PROVIDER CONTRACTS OFFERED UNDER THIS SECTION SHALL PROVIDE FOR PAYMENT OF SERVICES RENDERED BY NONPREFERRED PROVIDERS. THE PAYMENTS MAY OR MAY NOT BE THE SAME AMOUNT PAID TO PREFERRED PROVIDERS. UNLESS THE INSURER 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).