

EITHER THROUGH DIRECT PAYMENTS TO THE HEALTH CARE PROVIDER OR THROUGH REIMBURSEMENT TO THE INSURED.

(B) PAYMENTS TO NONPREFERRED PROVIDERS.

(1) A PREFERRED PROVIDER INSURANCE POLICY OFFERED BY AN INSURER UNDER THIS SUBTITLE SHALL PROVIDE FOR PAYMENT OF SERVICES RENDERED BY NONPREFERRED PROVIDERS AS PROVIDED IN THIS SUBSECTION.

(2) UNLESS THE INSURER DEMONSTRATES TO THE SATISFACTION OF THE COMMISSIONER THAT AN ALTERNATIVE LEVEL OF PAYMENT IS MORE APPROPRIATE, AGGREGATE PAYMENTS MADE IN A FULL CALENDAR YEAR TO NONPREFERRED PROVIDERS, AFTER ALL DEDUCTIBLE AND COPAYMENT PROVISIONS HAVE BEEN APPLIED, ON AVERAGE MAY NOT BE LESS THAN 80% OF THE AGGREGATE PAYMENTS MADE IN THAT FULL CALENDAR YEAR TO PREFERRED PROVIDERS FOR SIMILAR SERVICES, IN THE SAME GEOGRAPHIC AREA, UNDER THEIR PROVIDER SERVICE CONTRACTS.

(C) APPROVED RATES FOR INSTITUTIONAL PROVIDERS.

(1) IN THIS SUBSECTION, "UNFAIR DISCRIMINATION" MEANS AN ACT, METHOD OF COMPETITION, OR PRACTICE ENGAGED IN BY AN INSURER:

(I) THAT IS PROHIBITED BY TITLE 27, SUBTITLE 2 OF THIS ARTICLE; OR

(II) THAT, ALTHOUGH NOT SPECIFIED IN TITLE 27, SUBTITLE 2 OF THIS ARTICLE, THE COMMISSIONER BELIEVES IS UNFAIR OR DECEPTIVE AND THAT RESULTS IN THE INSTITUTION OF AN ACTION BY THE COMMISSIONER UNDER § 27-104 OF THIS ARTICLE.

(2) IF THE RATES FOR EACH INSTITUTIONAL PROVIDER UNDER A PREFERRED PROVIDER INSURANCE POLICY OFFERED BY AN INSURER VARY BASED ON INDIVIDUAL NEGOTIATIONS, GEOGRAPHIC DIFFERENCES, OR MARKET CONDITIONS AND ARE APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION, THE RATES DO NOT CONSTITUTE UNFAIR DISCRIMINATION UNDER THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, §§ 657 and 655(k).

In subsection (b)(1) of this section, the reference to this "subsection" is substituted for the former reference to this "section" for accuracy.

In subsection (b)(2) of this section, the defined term "provider service contract[s]" is substituted for the former reference to "provider service agreements" for consistency with the terminology used throughout this subtitle.

Also in subsection (b)(2) of this section, the former phrase "under the circumstances" is deleted as surplusage.

Also in subsection (b)(2) of this section, the former reference to payments