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SENATE FILE  
BY CONNOLLY

2306

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the liability of a managed care health plan or  
2 health maintenance organization to an insured or an enrollee.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2306  
COMMERCE

1 Section 1. NEW SECTION. 514L.1 LIABILITY OF A MANAGED  
2 CARE HEALTH PLAN OR HEALTH MAINTENANCE ORGANIZATION.

3 1. For purposes of this section, unless the context  
4 otherwise requires:

5 a. "Managed care health plan" means a health benefit plan  
6 that selects and contracts with health care providers; manages  
7 and coordinates health care delivery; monitors necessity,  
8 appropriateness, and quality of health care delivered by  
9 health care providers; and performs utilization review and  
10 cost control.

11 b. "Health maintenance organization" means a health  
12 maintenance organization as defined in section 514B.1,  
13 subsection 6.

14 2. a. A managed care health plan or health maintenance  
15 organization shall exercise ordinary care when making health  
16 care treatment decisions and is liable for damages for harm to  
17 an insured or enrollee proximately caused by its failure to  
18 exercise ordinary care. An insured or enrollee may bring an  
19 action against a managed care health plan or health  
20 maintenance organization for a breach of the duty to exercise  
21 ordinary care.

22 For purposes of this section, a managed care health plan or  
23 health maintenance organization includes an employee, agent,  
24 or other person acting on behalf of the managed care health  
25 plan or health maintenance organization.

26 b. In any action brought under this section against a  
27 managed care health plan or health maintenance organization,  
28 the managed care health plan or health maintenance  
29 organization may assert as a defense either of the following:

30 (1) The managed care health plan or health maintenance  
31 organization did not control, influence, or participate in the  
32 health care treatment decision.

33 (2) The managed care health plan or health maintenance  
34 organization did not deny or delay payment for any treatment  
35 prescribed or recommended by a health care provider.

1 c. This section does not create a duty on the part of the  
2 managed care health plan or health maintenance organization to  
3 provide treatment which is not covered by the health care plan  
4 of the managed care health plan or health maintenance  
5 organization.

6 d. In an action against a managed care health plan or  
7 health maintenance organization, a finding that a physician or  
8 other health care provider is an employee, agent, or  
9 representative of such managed care health plan or health  
10 maintenance organization shall not be based solely on proof  
11 that such person's name appears in a listing of approved  
12 health care providers made available to insureds or enrollees.

13 EXPLANATION

14 This bill creates new Code section 514L.1 which provides  
15 that a managed care health plan or health maintenance  
16 organization shall exercise ordinary care when making health  
17 care treatment decisions and is liable for damages for harm to  
18 an insured or enrollee proximately caused by its failure to  
19 exercise such ordinary care. The bill provides that an  
20 insured or enrollee may bring an action against a managed care  
21 health plan or health maintenance organization for a breach of  
22 the duty to exercise ordinary care. The bill provides that it  
23 is a defense in any action brought against a managed care  
24 health plan or health maintenance organization, that the  
25 managed care health plan or health maintenance organization  
26 did not control, influence, or participate in the health care  
27 treatment decision, or did not deny or delay payment for any  
28 treatment prescribed or recommended by a health care provider.  
29 The bill provides that the new Code section does not create a  
30 duty on the part of the managed care health plan or health  
31 maintenance organization to provide treatment which is not  
32 covered by the health care plan of the managed care health  
33 plan or health maintenance organization.

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