

## 2023 Kansas Statutes

**40-2,226. Contract requirements; third-party access to provider network contracts.** (a) A contracting entity may grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider network contract, subject to the requirements of subsections (b) and (c).

(b) At the time the contract is entered into, sold, leased or renewed or a when there are material modifications to a contract relevant to granting access to a provider network contract to a third party, the dental carrier shall allow any provider that is part of the carrier's provider network to choose to not participate in third party access to the contract or to enter into a contract directly with the health insurer that acquired the provider network. Opting out of lease arrangements shall not require dentists to cancel or otherwise end a contractual relationship with the original carrier that leases a provider network.

(c) A contracting entity may grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider network contract, if:

(1) The contract specifically states that the contracting entity may enter into an agreement with third parties, allowing such third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity, or if the contracting entity is a dental carrier, the provider chose to participate in third-party access at the time the provider network contract was entered into or renewed. The third-party access provision of any provider contract shall be clearly identified in the provider contract, including notice that the contract grants third-party access to the provider network and that the dentist has the right to choose not to participate in third-party access;

(2) the third party accessing the contract agrees to comply with all of the contract's terms, including such third party's obligation concerning patient steerage;

(3) the contracting entity identifies to the provider, in writing or electronic form, all third parties in existence as of the date the contract is entered into, sold, leased or renewed;

(4) the contracting entity identifies all third parties in existence in a list on its website that is updated at least once every 90 days;

(5) the contracting entity requires a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken, except that this paragraph shall not apply to electronic transactions mandated by the health insurance portability and accountability act of 1996, public law 104-191;

(6) the contracting entity notifies the third party of the termination of a provider network contract not later than 30 days from the termination date with the contracting entity; and

(7) a third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract. The contracting entity shall make available a copy of the provider network contract relied on in the adjudication of a claim to a provider within 30 days of a request from the provider.

(d) No provider shall be bound by or required to perform dental treatment or services under a provider network contract that has been granted to a third party in violation of K.S.A. 2023 Supp. 40-2,225 through 40-2,228, and amendments thereto.

(e) The provisions of this section shall not apply to:

(1) Access to a provider network contract that is granted to a dental carrier or an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. A list of the contracting entity's affiliates shall be made available to a provider on the contracting entity's website; or

(2) a provider network contract for dental services provided to beneficiaries of state-sponsored health programs, including medical assistance and the children's health insurance program.

(f) The provisions of this section shall not be waived by contract. Any contractual arrangement in conflict with the provisions of this section or that purports to waive any requirements of this section shall be null and void and unenforceable.

**History:** L. 2022, ch. 49, § 2; July 1.