

**STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Bulletin 2013-04-INS**

**In the matter of**

Most Favored Nation Clauses

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**Issued and entered  
this 8<sup>th</sup> day of February 2013  
by R. Kevin Clinton  
Commissioner**

On July 18, 2012, the Commissioner of the Office of Financial and Insurance Regulation (OFIR) issued Order No. 12-035-M, which, effective February 1, 2013, prohibits the use and enforcement of any most favored nation (MFN) clause in an insurer<sup>1</sup> provider contract that has not been previously reviewed and approved by the Commissioner.

MFN clauses prohibit a provider from charging an insurer a rate that is higher than the lowest reimbursement rate the provider accepts from any other insurer. As Order No. 12-035-M states, an MFN clause is one that:

- (1) Prohibits, or grants a contracting insurer an option to prohibit, a provider from contracting with another party to provide health care services at a lower rate than the payment or reimbursement rate specified in the contract with the contracting insurer;
- (2) Requires, or grants a contracting insurer an option to require, a provider to accept a lower payment or reimbursement rate if the provider agrees to provide health care services to any other party at a lower rate than the payment or reimbursement rate specified in the contract with the contracting insurer;
- (3) Requires, or grants a contracting insurer an option to require, termination or renegotiation of an existing provider contract if a provider agrees to provide health care services to any other party at a lower rate than the payment or reimbursement rate specified in the contract with the contracting insurer; or
- (4) Requires a provider to disclose, to the insurer or its designee, the provider's contractual payment or reimbursement rates with other parties.

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<sup>1</sup> Order No. 12-035-M defines insurer as an "insurer, health maintenance organization, or nonprofit healthcare corporation."

As of the date of this bulletin, no insurer has submitted any MFN clauses for the Commissioner's review. Accordingly, all MFNs currently in use by any insurer are void and unenforceable. In addition, Order No. 12-035-M remains in effect, and any attempt by an insurer to use or enforce an MFN clause in any provider contract, without the Commissioner's prior review and approval, is prohibited and will result in appropriate administrative action.

Any questions regarding this bulletin should be directed to:

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