



**Testimony by Mr. Scott Day  
State Treasurer, Kansas Association of Health Underwriters  
Senate Financial Institutions and Insurance Committee  
March 8, 2012 Hearing on SB 382**

My name is Scott Day and I am here today representing the Kansas Association of Health Underwriters as a proponent for SB 382. I am also a co-owner of Day Insurance Solutions, LLC, a health insurance agency in Topeka, KS that works in both the individual and group health insurance markets.

**Introduction:**

I am here today because I am concerned about the current status of our health care delivery system and the negative effects that high healthcare costs have on our citizens and their ability to acquire affordable healthcare and affordable health insurance. This bill, SB 382, has the potential to open up greater competition in the private insurance markets in Kansas and to lower the cost of health care services in Kansas. Both of these items would be desirable results for consumers in Kansas.

SB 382 seeks to restrict the use of “Most Favored Nation” (MFN) clauses in provider contracts.

**What is a Most Favored Nation clause?**

A most favored nation (MFN) clause is a contractual provision in an insurance contract that forcibly lowers a providers contracted reimbursement rates when said provider of health care services accepts a lower reimbursement rate from a competing insurance carrier. This rate reduction will generally match the lowest rates that the provider agreed to with the new carrier.

**What are the effects of MFN clauses?**

MFN clauses punish providers that accept contract offers from competing carriers by lowering their current contract reimbursement rates downward to the contracted rate of the new carrier contract. This effectively prevents providers from contracting with other carriers for fear of a

loss of reimbursement rates. With fewer contracted providers, other insurance carriers have a much harder time competing against a dominant carrier as many of their contracted services may be considered as out of network.

Another effect of MFN clauses is that it can keep health care costs artificially high. Competition from competing insurance carriers that have lower reimbursement rates would promote a lowering of health care services rates. But with providers fearful of losing their most favored reimbursement rates...health care services rates are basically set by the dominant carriers and competition is removed.

And finally the dominant insurance carrier's gain an unfair advantage because they are receiving the same discounted reimbursement rates that its competitors worked hard to acquire...this creates a huge advantage for them and should be corrected.

### **The Network Experience**

How important is it for competing insurance companies to develop provider networks in order to compete? It's IMPERATIVE. Most carriers have had trouble developing networks in Kansas for years...and it has effectively kept employer groups and individuals with primarily one or two carriers.

I had a recent experience with a small employer group ...that left me shaking my head. We were able to provide a fully underwritten quote to this group of 18 employees that would save them \$2000 per month or \$24,000 per year from their current carrier's renewal rate. But when we looked at the network...12 of the 18 employees' doctors was out of network...including the two owner's doctors. They chose to stay with their current carrier...sacrificing \$24,000 of savings...money that could have been applied to salaries, business growth, and etc.

With proper provider networks...a competing carrier would have been allowed to compete...instead of the big...getting bigger. And a small employer would have lowered their premiums and would not be complaining so loudly about their skyrocketing health insurance premiums.

### **Recommendations:**

The Kansas Association of Health Underwriters supports the enactment of SB 382 for several reasons: 1) More carriers with larger provider networks provide consumers and employers with more lower cost options; 2) Competition from other carriers helps to lower the costs of provider services; 3) Our largest insurance carriers do NOT need the protections of MFN clauses to compete in the Kansas market; & 4) With better insurance company networks, Kansan's will have far better protections against out of network provider charges and medical bankruptcies.

