

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1074

(Senator Klausmeier)

Finance

Health Insurance - Nonparticipating Providers - Disclosure of Status and Charges

This bill requires nonparticipating health care providers, health care facilities, and carriers to disclose specified information to enrollees regarding balance billing by a nonparticipating provider.

The bill applies to all policies and contracts issued, delivered, or renewed in the State on or after October 1, 2010, by carriers, health care providers, or health care facilities subject to the bill.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing governmental resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A "carrier" means an insurer, nonprofit health service plan, health maintenance organization (HMO), dental plan organization, third-party administrator, or any other health benefit plan subject to State regulation.

A "health care facility" means a hospital, emergency clinic, outpatient clinic, birthing center, ambulatory surgical center, or any other facility providing health care services.

A “nonparticipating provider” means a health care provider that is not under contract with an enrollee’s carrier.

A “balance” means the amount by which a billed charge exceeds the amount paid by an enrollee’s carrier and any copayment, coinsurance, or deductible that the enrollee may be required to pay under his or her health insurance policy or contract.

Nonparticipating Provider Requirements

A nonparticipating provider must, prior to rendering a health care service to an enrollee, disclose to the enrollee that he or she does not participate with the enrollee’s carrier; that he or she will be responsible for payments that exceed the amount that the carrier will pay for services rendered; a good faith estimate of the amount of the billed charge for which the enrollee will be responsible; any applicable payment terms; and whether any interest will apply, including the amount. The information must be provided in writing, signed by the enrollee or the enrollee’s parent or guardian, and maintained by the provider as part of the enrollee’s medical records. If a provider renders a service in an emergency department or as a result of an emergent direct admission, the provider must disclose this information once the enrollee has been stabilized according to the federal Emergency Medical Treatment and Labor Act.

A provider may not seek or recover any amount that exceeds the good faith estimate provided to an enrollee unless it can demonstrate good cause why the estimate was less than the actual cost of services rendered and a reasonable basis for not including the additional amount in the initial good faith estimate.

The bill also prohibits any provider other than a nonparticipating health care provider from seeking or recovering any payment in excess of the amount paid by the carrier plus any copayment, coinsurance, or deductible required of the enrollee under his or her health insurance contract.

Requirements for Health Care Facilities that Contract with Nonparticipating Providers

Health care facilities that contract with nonparticipating providers must prominently display a notice in each facility waiting room that indicates that some or all of the practitioners who may treat an enrollee while in the health care facility may be nonparticipating providers; advises that some or all of those nonparticipating providers may expect reimbursement in addition to any payments made by the enrollee’s carrier; and provides sufficient contact information to enable an enrollee to obtain a disclosure required by a nonparticipating provider.

Carrier Requirements

On its web site, a carrier must provide Internet links to a directory of participating providers and disclose that some health care providers are nonparticipating providers and that some participating health care facilities may utilize nonparticipating providers. In addition, the web site must include a general description of the financial impact on an enrollee when he or she seeks care from a nonparticipating provider or a facility that utilizes nonparticipating providers. The bill includes specified information that must be included in the description.

Other Provisions

Health care providers and carriers must establish a process to resolve complaints regarding the bill's requirements, and the process must include a good faith effort to resolve complaints informally.

The Insurance Commissioner must develop forms to implement the bill's disclosure requirements.

Current Law: Providers that participate in HMO or preferred provider organization (PPO) networks must accept as payment in full the rate they negotiated with the HMO or PPO. Noncontracting (out-of-network) providers that participate in HMOs must accept the amount defined in statute.

Background: Generally, a carrier contracts with a physician or other health care provider to deliver health care services to the carrier's enrollees. Often, these contracts include negotiated reimbursement amounts that are far lower than what a provider would normally charge. When a health care provider rejects these contracts, the provider is considered a nonparticipating provider with that particular carrier.

An enrollee can be surprised when, after receiving services from a nonparticipating provider who was reimbursed by the enrollee's carrier, he or she receives a bill from the provider for the amount not paid by the carrier. This is what is commonly referred to as balance billing.

According to the National Conference of Insurance Legislators, this bill is based on a law passed in Texas in 2007, and Louisiana law contains some similar provisions.

Additional Information

Prior Introductions: None.

Cross File: HB 1468 (Delegate Tarrant, *et al.*) - Health and Government Operations.

Information Source(s): Department of Budget and Management, Maryland Health Insurance Plan, Department of Health and Mental Hygiene, Maryland Insurance Administration, National Conference of Insurance Legislators, Department of Legislative Services

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