

4437

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. SILVER, GOTTFRIED -- Multi-Sponsored by -- M. of
A. BRAUNSTEIN, BRINDISI, DINOWITZ, HEVESI -- read once and referred to
the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting Medi-
care charges by healthcare providers in excess of statutory limita-
tions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 19 of the public health law, as added by chapter
2 572 of the laws of 1990, is amended to read as follows:
3 S 19. Reasonable charges for medicare beneficiaries. 1. No [physician
4 licensed under article one hundred thirty-one of the education law]
5 HEALTHCARE PROVIDER shall charge from a beneficiary of health insurance
6 under title XVIII of the federal social security act (medicare) any
7 amount in excess of ONE HUNDRED AND FIVE PERCENT OF the [following limi-
8 tations:
9 (a) Effective January first, nineteen hundred ninety-one, a physi-
10 cian's charge shall not exceed one hundred fifteen percent of the
11 reasonable charge for that service as determined by the United States
12 secretary for health and human services.
13 (b) Beginning January first, nineteen hundred ninety-three, a physi-
14 cian's charge shall not exceed one hundred ten percent of the reasonable
15 charge] ESTABLISHED MEDICARE PAYMENT RATE, INCLUDING ANY DEDUCTIBLES,
16 COINSURANCE OR COPAYMENTS for that service as determined by the United
17 States secretary for health and human services[, provided however, that
18 if the statewide percentage of medicare part B claims billed at or below
19 the reasonable charge as determined by the United States secretary for
20 health and human services for federal fiscal year nineteen hundred
21 eighty-nine fails to increase by five percentage points for federal
22 fiscal year nineteen hundred ninety-two, such physician's charge shall,
23 thereafter, not exceed one hundred five percent of the reasonable charge

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 as determined by the United States secretary for health and human
2 services. If, in any subsequent federal fiscal year, such statewide
3 percentage of medicare part B claims billed at or below such reasonable
4 charge fails to maintain such five percentage point increase, physi-
5 cian's charge shall thereafter not exceed one hundred five percent of
6 the reasonable charge as determined by the United States secretary for
7 health and human services].

8 1-A. IN THE EVENT A BENEFICIARY OF MEDICARE EXHAUSTS ANY CAPPED BENE-
9 FIT FOR HEALTH CARE SERVICES, INCLUDING, BUT NOT LIMITED TO, REHABILI-
10 TATION SERVICES, THE CHARGE LIMITATION SET FORTH IN SUBDIVISION ONE OF
11 THIS SECTION SHALL CONTINUE TO APPLY, PROVIDED THAT SUCH SERVICES ARE
12 DETERMINED TO BE MEDICALLY NECESSARY.

13 2. The charge limitation set forth in subdivision one of this section
14 shall not apply if the service which such beneficiary is to be billed is
15 either an office or home visit as set forth in procedure codes 90000
16 through 90170 in the Physician Current Procedural Terminology 4th
17 Edition 1989.

18 3. [The state office for the aging shall, through agreement with
19 carriers and/or intermediaries contracted with by the federal government
20 in this state pursuant to title XVIII of the federal social security act
21 (medicare), obtain the percentages of physician's bills submitted at or
22 below the reasonable charge as established by the United States secre-
23 tary for health and human services, and shall issue a report by December
24 first, nineteen hundred ninety-two and every December first, thereafter,
25 stating whether the percentage of bills submitted at or below such
26 reasonable charge for federal fiscal year nineteen hundred ninety-two
27 increased by five percentage points over the statewide percentage of
28 bills submitted at or below such reasonable charge for federal fiscal
29 year nineteen hundred eighty-nine and whether such percentage has been
30 maintained for each successive federal fiscal year after nineteen
31 hundred ninety-two.

32 4.] Notwithstanding any inconsistent provision of this chapter, a
33 [physician] HEALTHCARE PROVIDER who is determined, after opportunity for
34 a hearing, to have violated the provisions of this section shall be
35 subject for the first violation to a fine of not more than one thousand
36 dollars nor less than the greater of three times the amount collected,
37 or, if not collected, three times the amount charged, in excess of the
38 limitations set forth in subdivision one of this section, and, for each
39 additional violation committed within five years of the date of an imme-
40 diately preceding violation of this section, to a fine of not more than
41 five thousand dollars nor less than the greater of one thousand dollars
42 or three times the amount collected, or, if not collected, three times
43 the amount charged, in excess of the limitations set forth in subdivi-
44 sion one of this section; provided, however, that in no event shall the
45 fine for an individual violation of this section be greater than five
46 thousand dollars. In addition, where the provisions of this section have
47 been violated, the [physician] HEALTHCARE PROVIDER shall refund to the
48 beneficiary the amount collected in excess of the limitations set forth
49 in subdivision one of this section.

50 4. FOR PURPOSES OF THIS SECTION, A "HEALTHCARE PROVIDER" SHALL MEAN A
51 HEALTHCARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE
52 EDUCATION LAW OR A LAWFUL COMBINATION OF SUCH HEALTHCARE PRACTITIONERS;
53 AND AN ENTITY LICENSED OR CERTIFIED UNDER ARTICLE TWENTY-EIGHT OR THIR-
54 TY-SIX OF THIS CHAPTER.

55 S 2. This act shall take effect immediately and shall apply to all
56 charges incurred on and after January 1, 2014.