

STATE OF NEW YORK

6363

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to hospital statements of rights and responsibilities of patients; to amend the financial services law, in relation to dispute resolution for emergency services; and to amend the financial services law and the insurance law, in relation to assignment of health insurance benefits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (k) of subdivision 1 of section 2803 of the
2 public health law, as added by chapter 241 of the laws of 2016, is
3 amended to read as follows:

4 (k) The statement regarding patient rights and responsibilities,
5 required pursuant to paragraph (g) of this subdivision, shall include
6 provisions informing the patient of his or her right to ~~[choose]~~ be held
7 harmless from certain bills for emergency services and surprise bills,
8 and to submit surprise bills or bills for emergency services to the
9 independent dispute process established in article six of the financial
10 services law, and informing the patient of his or her right to view a
11 list of the hospital's standard charges and the health plans the hospi-
12 tal participates with consistent with section twenty-four of this chap-
13 ter.

14 § 2. Sections 605, 606 and 608 of the financial services law, as added
15 by section 26 of part H of chapter 60 of the laws of 2014, are amended
16 to read as follows:

17 § 605. Dispute resolution for emergency services. (a) Emergency
18 services for an insured. (1) When a health care plan receives a bill for
19 emergency services from a non-participating physician or hospital, the
20 health care plan shall pay an amount that it determines is reasonable
21 for the emergency services rendered by the non-participating physician
22 or hospital, in accordance with section three thousand two hundred twen-

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

LBD11735-01-7

ty-four-a of the insurance law, except for the insured's co-payment, coinsurance or deductible, if any, and shall ensure that the insured shall incur no greater out-of-pocket costs for the emergency services than the insured would have incurred with a participating physician pursuant to subsection (c) of section three thousand two hundred forty-one of the insurance law. If an insured assigns benefits to a non-participating physician or hospital, such payment shall be made directly to the assignee.

(2) A non-participating physician, hospital or a health care plan may submit a dispute regarding a fee or payment for emergency services for review to an independent dispute resolution entity.

(3) The independent dispute resolution entity shall make a determination within thirty days of receipt of the dispute for review.

(4) In determining a reasonable fee for the services rendered, an independent dispute resolution entity shall select either the health care plan's payment or the non-participating physician's or hospital's fee. The independent dispute resolution entity shall determine which amount to select based upon the conditions and factors set forth in section six hundred four of this article. If an independent dispute resolution entity determines, based on the health care plan's payment and the non-participating physician's or hospital's fee, that a settlement between the health care plan and non-participating physician or hospital is reasonably likely, or that both the health care plan's payment and the non-participating physician's or hospital's fee represent unreasonable extremes, then the independent dispute resolution entity may direct both parties to attempt a good faith negotiation for settlement. The health care plan and non-participating physician or hospital may be granted up to ten business days for this negotiation, which shall run concurrently with the thirty day period for dispute resolution.

(b) Emergency services for a patient that is not an insured. (1) A patient that is not an insured or the patient's physician may submit a dispute regarding a fee for emergency services for review to an independent dispute resolution entity upon approval of the superintendent.

(2) An independent dispute resolution entity shall determine a reasonable fee for the services based upon the same conditions and factors set forth in section six hundred four of this article.

(3) A patient that is not an insured shall not be required to pay the physician's or hospital's fee in order to be eligible to submit the dispute for review to an independent dispute resolution entity.

(c) The determination of an independent dispute resolution entity shall be binding on the health care plan, physician and patient, and shall be admissible in any court proceeding between the health care plan, physician or patient, or in any administrative proceeding between this state and the physician.

§ 606. Hold harmless and assignment of benefits for emergency services and surprise bills for insureds. When an insured assigns benefits for an emergency service or a surprise bill in writing to a non-participating physician or hospital that knows the insured is insured under a health care plan, the non-participating physician or hospital shall not bill the insured except for any applicable copayment, coinsurance or deductible that would be owed if the insured utilized a participating physician.

§ 608. Payment for independent dispute resolution entity. (a) For disputes involving an insured, when the independent dispute resolution entity determines the health care plan's payment is reasonable, payment

1 for the dispute resolution process shall be the responsibility of the
2 non-participating physician or hospital. When the independent dispute
3 resolution entity determines the non-participating physician's or hospi-
4 tal's fee is reasonable, payment for the dispute resolution process
5 shall be the responsibility of the health care plan. When a good faith
6 negotiation directed by the independent dispute resolution entity pursu-
7 ant to paragraph four of subsection (a) of section six hundred five of
8 this article, or paragraph six of subsection (a) of section six hundred
9 seven of this article results in a settlement between the health care
10 plan and non-participating physician or hospital, the health care plan
11 and the non-participating physician or hospital shall evenly divide and
12 share the prorated cost for dispute resolution.

13 (b) For disputes involving a patient that is not an insured, when the
14 independent dispute resolution entity determines the physician's fee is
15 reasonable, payment for the dispute resolution process shall be the
16 responsibility of the patient unless payment for the dispute resolution
17 process would pose a hardship to the patient. The superintendent shall
18 promulgate a regulation to determine payment for the dispute resolution
19 process in cases of hardship. When the independent dispute resolution
20 entity determines the physician's fee is unreasonable, payment for the
21 dispute resolution process shall be the responsibility of the physician.

22 § 3. Subsection (c) of section 3241 of the insurance law, as added by
23 section 6 of part H of chapter 60 of the laws of 2014, is amended to
24 read as follows:

25 (c) (1) When an insured or enrollee under a contract or policy that
26 provides coverage for emergency services receives the services from a
27 health care provider that does not participate in the provider network
28 of an insurer, a corporation organized pursuant to article forty-three
29 of this chapter, a municipal cooperative health benefit plan certified
30 pursuant to article forty-seven of this chapter, a health maintenance
31 organization certified pursuant to article forty-four of the public
32 health law, or a student health plan established or maintained pursuant
33 to section one thousand one hundred twenty-four of this chapter ("health
34 care plan"), the health care plan shall ensure that the insured or
35 enrollee shall (A) incur no greater out-of-pocket costs for the emergen-
36 cy services than the insured or enrollee would have incurred with a
37 health care provider that participates in the health care plan's provid-
38 er network and (B) provide the insured or enrollee the option of assign-
39 ing the payment of any benefits due under such contract or policy
40 directly to the health care provider. Whenever, in any health insurance
41 claim form, an insured or enrollee specifically authorizes the payment
42 of benefits directly to a health care provider, the health care plan
43 shall make such payment to the health care provider. (2) For the
44 purpose of this section, "emergency services" shall have the meaning set
45 forth in subparagraph (D) of paragraph nine of subsection (i) of section
46 three thousand two hundred sixteen of this article, subparagraph (D) of
47 paragraph four of subsection (k) of section three thousand two hundred
48 twenty-one of this article, and subparagraph (D) of paragraph two of
49 subsection (a) of section four thousand three hundred three of this
50 chapter.

51 § 4. This act shall take effect on the ninetieth day after it shall
52 have become a law.