

# STATE OF NEW YORK

---

1793

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

---

Introduced by Sen. RIVERA -- 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 general municipal law, in relation to insurance coverage of ambulance and emergency medical services; 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. Subdivision 2 of section 122-b of the general municipal law, as  
15 amended by chapter 303 of the laws of 1980, is amended to read as  
16 follows:

17 2. Such municipality shall formulate rules and regulations relating to  
18 the use of such apparatus and equipment in the provision of emergency  
19 medical services or ambulance service and may fix a schedule of fees or  
20 charges to be paid by persons requesting the use of such facilities.

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

LBD07755-01-9

1 Such rules and regulations shall ensure that insured individuals incur  
2 no out-of-pocket costs for use of such services and/or facilities,  
3 except any applicable co-payment, coinsurance or deductible. Such muni-  
4 cipalities may provide for the collection of such fees and charges or  
5 may formulate rules and regulations for the collection thereof by the  
6 individuals, municipal corporations, associations, or other organiza-  
7 tions furnishing service under contract as provided in paragraph (c) of  
8 subdivision one of this section.

9 § 3. Subsection (b) of section 603 of the financial services law, as  
10 added by section 26 of part H of chapter 60 of the laws of 2014, is  
11 amended to read as follows:

12 (b) "Emergency services" means ambulance services as defined in subdi-  
13 vision one of section three thousand one of the public health law and,  
14 with respect to an emergency condition: (1) a medical screening exam-  
15 ination as required under section 1867 of the social security act, 42  
16 U.S.C. § 1395dd, which is within the capability of the emergency depart-  
17 ment of a hospital, including ancillary services routinely available to  
18 the emergency department to evaluate such emergency medical condition;  
19 and (2) within the capabilities of the staff and facilities available at  
20 the hospital, such further medical examination and treatment as are  
21 required under section 1867 of the social security act, 42 U.S.C. §  
22 1395dd, to stabilize the patient.

23 § 4. Sections 605, 606 and 608 of the financial services law, as  
24 added by section 26 of part H of chapter 60 of the laws of 2014, are  
25 amended to read as follows:

26 § 605. Dispute resolution for emergency services. (a) Emergency  
27 services for an insured. (1) When a health care plan receives a bill for  
28 emergency services from a non-participating physician, hospital or ambu-  
29 lance provider, the health care plan shall pay an amount that it deter-  
30 mines is reasonable for the emergency services rendered by the non-par-  
31 ticipating physician, hospital or ambulance provider, in accordance with  
32 section three thousand two hundred twenty-four-a of the insurance law,  
33 except for the insured's co-payment, coinsurance or deductible, if any,  
34 and shall ensure that the insured shall incur no greater out-of-pocket  
35 costs for the emergency services than the insured would have incurred  
36 with a participating physician pursuant to subsection (c) of section  
37 three thousand two hundred forty-one of the insurance law. If an insured  
38 assigns benefits to a non-participating physician, hospital or ambulance  
39 provider, such payment shall be made directly to the assignee.

40 (2) A non-participating physician, hospital or ambulance provider, or  
41 a health care plan may submit a dispute regarding a fee or payment for  
42 emergency services for review to an independent dispute resolution enti-  
43 ty.

44 (3) The independent dispute resolution entity shall make a determi-  
45 nation within thirty days of receipt of the dispute for review.

46 (4) In determining a reasonable fee for the services rendered, an  
47 independent dispute resolution entity shall select either the health  
48 care plan's payment or the non-participating physician's, hospital's or  
49 ambulance provider's fee. The independent dispute resolution entity  
50 shall determine which amount to select based upon the conditions and  
51 factors set forth in section six hundred four of this article. If an  
52 independent dispute resolution entity determines, based on the health  
53 care plan's payment and the non-participating physician's, hospital's or  
54 ambulance provider's fee, that a settlement between the health care plan  
55 and non-participating physician, hospital or ambulance provider is  
56 reasonably likely, or that both the health care plan's payment and the

1 non-participating physician's, hospital's or ambulance provider's fee  
2 represent unreasonable extremes, then the independent dispute resolution  
3 entity may direct both parties to attempt a good faith negotiation for  
4 settlement. The health care plan and non-participating physician, hospi-  
5 tal or ambulance provider may be granted up to ten business days for  
6 this negotiation, which shall run concurrently with the thirty day peri-  
7 od for dispute resolution.

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

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

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

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

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

32 § 608. Payment for independent dispute resolution entity. (a) For  
33 disputes involving an insured, when the independent dispute resolution  
34 entity determines the health care plan's payment is reasonable, payment  
35 for the dispute resolution process shall be the responsibility of the  
36 non-participating physician, hospital or ambulance provider. When the  
37 independent dispute resolution entity determines the non-participating  
38 physician's, hospital's or ambulance provider's fee is reasonable,  
39 payment for the dispute resolution process shall be the responsibility  
40 of the health care plan. When a good faith negotiation directed by the  
41 independent dispute resolution entity pursuant to paragraph four of  
42 subsection (a) of section six hundred five of this article, or paragraph  
43 six of subsection (a) of section six hundred seven of this article  
44 results in a settlement between the health care plan and non-participat-  
45 ing physician, hospital or ambulance provider, the health care plan and  
46 the non-participating physician, hospital or ambulance provider shall  
47 evenly divide and share the prorated cost for dispute resolution.

48 (b) For disputes involving a patient that is not an insured, when the  
49 independent dispute resolution entity determines the physician's fee is  
50 reasonable, payment for the dispute resolution process shall be the  
51 responsibility of the patient unless payment for the dispute resolution  
52 process would pose a hardship to the patient. The superintendent shall  
53 promulgate a regulation to determine payment for the dispute resolution  
54 process in cases of hardship. When the independent dispute resolution  
55 entity determines the physician's fee is unreasonable, payment for the  
56 dispute resolution process shall be the responsibility of the physician.

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

(c) (1) When an insured or enrollee under a contract or policy that provides coverage for emergency services receives the services from a health care provider that does not participate in the provider network of an insurer, a corporation organized pursuant to article forty-three of this chapter, a municipal cooperative health benefit plan certified pursuant to article forty-seven of this chapter, a health maintenance organization certified pursuant to article forty-four of the public health law, or a student health plan established or maintained pursuant to section one thousand one hundred twenty-four of this chapter ("health care plan"), the health care plan shall ensure that the insured or enrollee shall (A) incur no greater out-of-pocket costs for the emergency services than the insured or enrollee would have incurred with a health care provider that participates in the health care plan's provider network and (B) provide the insured or enrollee the option of assigning the payment of any benefits due under such contract or policy directly to the health care provider. Whenever, in any health insurance claim form, an insured or enrollee specifically authorizes the payment of benefits directly to a health care provider, the health care plan shall make such payment to the health care provider. (2) For the purpose of this section, "emergency services" shall have the meaning set forth in ~~[subparagraph (D) of paragraph nine of subsection (i) of section three thousand two hundred sixteen of this article, subparagraph (D) of paragraph four of subsection (k) of section three thousand two hundred twenty one of this article, and subparagraph (D) of paragraph two of subsection (a) of section four thousand three hundred three of this chapter]~~ subsection (b) of section six hundred three of the financial services law.

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