S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N A S S E M B L Y

June 5, 2013

Introduced by M. of A. SILVER, GOTTFRIED, MILLMAN, MORELLE, FARRELL, JACOBS -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, BRINDISI, BRONSON, CLARK, DINOWITZ, GOLDFEDER, HENNESSEY, HEVESI, LAVINE, LIFTON, PAULIN, ROBERTS, ROBINSON, ROSA, RUSSELL, SANTABARBARA, SKOUFIS, STIRPE, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting Medicare charges by healthcare providers in excess of statutory limitations

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

Section 1. Section 19 of the public health law, as added by chapter 572 of the laws of 1990, is amended to read as follows:

S 19. Reasonable charges for medicare beneficiaries. 1. No [physician licensed under article one hundred thirty-one of the education law] HEALTHCARE PROVIDER shall charge from a beneficiary of health insurance under title XVIII of the federal social security act (medicare) any amount in excess of ONE HUNDRED AND FIVE PERCENT OF the [following limitations:

(a) Effective January first, nineteen hundred ninety-one, a physician's charge shall not exceed one hundred fifteen percent of the reasonable charge for that service as determined by the United States secretary for health and human services.

(b) Beginning January first, nineteen hundred ninety-three, a physician's charge shall not exceed one hundred ten percent of the reasonable charge] ESTABLISHED MEDICARE PAYMENT RATE, INCLUDING ANY DEDUCTIBLES, COINSURANCE OR COPAYMENTS for that service as determined by the United States secretary for health and human services[, provided however, that if the statewide percentage of medicare part B claims billed at or below the reasonable charge as determined by the United States secretary for health and human services for federal fiscal year nineteen hundred

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

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eighty-nine fails to increase by five percentage points for federal fiscal year nineteen hundred ninety-two, such physician's charge shall, thereafter, not exceed one hundred five percent of the reasonable charge as determined by the United States secretary for health and human services. If, in any subsequent federal fiscal year, such statewide percentage of medicare part B claims billed at or below such reasonable charge fails to maintain such five percentage point increase, physician's charge shall thereafter not exceed one hundred five percent of the reasonable charge as determined by the United States secretary for health and human services].

1-A. IN THE EVENT A BENEFICIARY OF MEDICARE EXHAUSTS ANY CAPPED BENEFIT FOR HEALTH CARE SERVICES, INCLUDING, BUT NOT LIMITED TO, REHABILITATION SERVICES, THE CHARGE LIMITATION SET FORTH IN SUBDIVISION ONE OF THIS SECTION SHALL CONTINUE TO APPLY, PROVIDED THAT SUCH SERVICES ARE DETERMINED TO BE MEDICALLY NECESSARY.

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

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

4.] Notwithstanding any inconsistent provision of this chapter, a [physician] HEALTHCARE PROVIDER who is determined, after opportunity for a hearing, to have violated the provisions of this section shall be subject for the first violation to a fine of not more than one thousand dollars nor less than the greater of three times the amount collected, or, if not collected, three times the amount charged, in excess of the limitations set forth in subdivision one of this section, and, for each additional violation committed within five years of the date of an immediately preceding violation of this section, to a fine of not more than five thousand dollars nor less than the greater of one thousand dollars or three times the amount collected, or, if not collected, three times the amount charged, in excess of the limitations set forth in subdivision one of this section; provided, however, that in no event shall the fine for an individual violation of this section be greater than five thousand dollars. In addition, where the provisions of this section have been violated, the [physician] HEALTHCARE PROVIDER shall refund to the beneficiary the amount collected in excess of the limitations set forth in subdivision one of this section.

4. FOR PURPOSES OF THIS SECTION, A "HEALTHCARE PROVIDER" SHALL MEAN A HEALTHCARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION LAW OR A LAWFUL COMBINATION OF SUCH HEALTHCARE PRACTITIONERS;

AND AN ENTITY LICENSED OR CERTIFIED UNDER ARTICLE TWENTY-EIGHT OR THIRTY-SIX OF THIS CHAPTER.

S 2. This act shall take effect immediately and shall apply to all charges incurred on and after January 1, 2012.