

10470

I N   A S S E M B L Y

May 27, 2016

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Introduced by M. of A. CAHILL -- read once and referred to the Committee on Insurance

AN ACT to amend the financial services law, in relation to establishing protections from excessive hospital emergency charges; and providing for the repeal of certain provisions upon expiration thereof

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

1     Section 1. Section 605 of the financial services law, as added by  
2     section 26 of part H of chapter 60 of the laws of 2014, is amended to  
3     read as follows:

4     S 605. Dispute resolution for emergency services. (a) Emergency  
5     services for an insured. (1) When a health care plan receives a bill for  
6     emergency services from a non-participating physician OR HOSPITAL, the  
7     health care plan shall pay an amount that it determines is reasonable  
8     for the emergency services rendered by the non-participating physician  
9     OR HOSPITAL, in accordance with section three thousand two hundred twenty-four-a of the insurance law, except for the insured's co-payment,  
10    coinsurance or deductible, if any, and shall ensure that the insured  
11    shall incur no greater out-of-pocket costs for the emergency services  
12    than the insured would have incurred with a participating physician OR  
13    HOSPITAL pursuant to subsection (c) of section three thousand two  
14    hundred forty-one of the insurance law.

15    (2) A non-participating physician OR HOSPITAL or a health care plan  
16    may submit a dispute regarding a fee or payment for emergency services  
17    for review to an independent dispute resolution entity. IN CASES WHERE A  
18    HEALTH CARE PLAN SUBMITS A DISPUTE REGARDING A FEE FOR PAYMENT OF A  
19    NON-PARTICIPATING HOSPITAL'S EMERGENCY ROOM SERVICES, THE HEALTH CARE  
20    PLAN SHALL PAY THE AMOUNT IT DETERMINES IS REASONABLE DIRECTLY TO THE  
21    NON-PARTICIPATING HOSPITAL.

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

23    (4) In determining a reasonable fee for the services rendered, an  
24    independent dispute resolution entity shall select either the health  
25    care plan's payment or the non-participating physician's OR HOSPITAL'S  
26    payment.

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

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1 fee. The independent dispute resolution entity shall determine which  
2 amount to select based upon the conditions and factors set forth in  
3 section six hundred four of this article. If an independent dispute  
4 resolution entity determines, based on the health care plan's payment  
5 and the non-participating physician's OR HOSPITAL'S fee, that a settle-  
6 ment between the health care plan and non-participating physician OR  
7 HOSPITAL is reasonably likely, or that both the health care plan's  
8 payment and the non-participating physician's OR HOSPITAL'S fee repre-  
9 sent unreasonable extremes, then the independent dispute resolution  
10 entity may direct both parties to attempt a good faith negotiation for  
11 settlement. The health care plan and non-participating physician OR  
12 HOSPITAL may be granted up to ten business days for this negotiation,  
13 which shall run concurrently with the thirty day period for dispute  
14 resolution.

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

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

22 (3) A patient that is not an insured shall not be required to pay the  
23 physician's OR HOSPITAL'S fee in order to be eligible to submit the  
24 dispute for review to an independent dispute resolution entity.

25 (c) The determination of an independent dispute resolution entity  
26 shall be binding on the health care plan, physician OR HOSPITAL and  
27 patient, and shall be admissible in any court proceeding between the  
28 health care plan, physician OR HOSPITAL or patient, or in any adminis-  
29 trative proceeding between this state and the physician OR HOSPITAL.

30 S 2. Subdivision (a) of section 608 of the financial services law, as  
31 added by section 26 of part H of chapter 60 of the laws of 2014, is  
32 amended to read as follows:

33 (a) For disputes involving an insured, when the independent dispute  
34 resolution entity determines the health care plan's payment is reason-  
35 able, payment for the dispute resolution process shall be the responsi-  
36 bility of the non-participating physician OR HOSPITAL. When the inde-  
37 pendent dispute resolution entity determines the non-participating  
38 physician's OR HOSPITAL'S fee is reasonable, payment for the dispute  
39 resolution process shall be the responsibility of the health care plan.  
40 When a good faith negotiation directed by the independent dispute resol-  
41 ution entity pursuant to paragraph four of [subsection] SUBDIVISION (a)  
42 of section six hundred five of this article, or paragraph six of  
43 [subsection] SUBDIVISION (a) of section six hundred seven of this arti-  
44 cle results in a settlement between the health care plan and non-parti-  
45 cipating physician, the health care plan and the non-participating  
46 physician OR HOSPITAL shall evenly divide and share the prorated cost  
47 for dispute resolution.

48 S 3. A contract between a hospital or hospital system located in a  
49 county with a population greater than 178,000 and less than 182,000 and  
50 a commercial health insurer providing coverage or benefits for both  
51 fully insured and self-insured members is subject to expire or is being  
52 terminated on or after May 31, 2016, shall automatically be extended,  
53 under the same terms and conditions, for an additional ninety days  
54 during which time the parties to the contract shall engage a mutually  
55 agreeable independent and qualified third party to mediate the financial

1 terms in dispute between the parties. In selecting the third party medi-  
2 ator, such parties shall act reasonably and in good faith.  
3 S 4. This act shall take effect immediately; provided that section  
4 three of this act shall expire and be deemed repealed on January 1,  
5 2017.