

7868--A

I N   S E N A T E

May 18, 2016

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Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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    hundred forty-one of the insurance law.

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

23    (3) The independent dispute resolution entity shall make a determination within thirty days of receipt of the dispute for review.  
24

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

LBD15486-02-6

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

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

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

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

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

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

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

51 S 3. A contract between a hospital or hospital system located in a  
52 county with a population greater than 178,000 and less than 182,000 and  
53 a commercial health insurer providing coverage or benefits for both  
54 fully insured and self-insured members is subject to expire or is being  
55 terminated on or after May 31, 2016, shall automatically be extended,  
56 under the same terms and conditions, for an additional ninety days

1 during which time the parties to the contract shall engage a mutually  
2 agreeable independent and qualified third party to mediate the financial  
3 terms in dispute between the parties. In selecting the third party medi-  
4 ator, such parties shall act reasonably and in good faith.  
5 S 4. This act shall take effect immediately; provided that section  
6 three of this act shall expire and be deemed repealed on January 1,  
7 2017.