

STATE OF NEW YORK

6363--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

14 (b) "Emergency services" means ambulance services as defined in subdi-
15 vision one of section three thousand one of the public health law and,
16 with respect to an emergency condition: (1) a medical screening exam-
17 ination as required under section 1867 of the social security act, 42
18 U.S.C. § 1395dd, which is within the capability of the emergency depart-
19 ment of a hospital, including ancillary services routinely available to
20 the emergency department to evaluate such emergency medical condition;
21 and (2) within the capabilities of the staff and facilities available at
22 the hospital, such further medical examination and treatment as are
23 required under section 1867 of the social security act, 42 U.S.C. §
24 1395dd, to stabilize the patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 entity determines the physician's fee is unreasonable, payment for the
2 dispute resolution process shall be the responsibility of the physician.

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

6 (c) (1) When an insured or enrollee under a contract or policy that
7 provides coverage for emergency services receives the services from a
8 health care provider that does not participate in the provider network
9 of an insurer, a corporation organized pursuant to article forty-three
10 of this chapter, a municipal cooperative health benefit plan certified
11 pursuant to article forty-seven of this chapter, a health maintenance
12 organization certified pursuant to article forty-four of the public
13 health law, or a student health plan established or maintained pursuant
14 to section one thousand one hundred twenty-four of this chapter ("health
15 care plan"), the health care plan shall ensure that the insured or
16 enrollee shall (A) incur no greater out-of-pocket costs for the emergen-
17 cy services than the insured or enrollee would have incurred with a
18 health care provider that participates in the health care plan's provid-
19 er network and (B) provide the insured or enrollee the option of assign-
20 ing the payment of any benefits due under such contract or policy
21 directly to the health care provider. Whenever, in any health insurance
22 claim form, an insured or enrollee specifically authorizes the payment
23 of benefits directly to a health care provider, the health care plan
24 shall make such payment to the health care provider. (2) For the

25 purpose of this section, "emergency services" shall have the meaning set
26 forth in [~~subparagraph (D) of paragraph nine of subsection (i) of~~
27 ~~section three thousand two hundred sixteen of this article, subparagraph~~
28 ~~(D) of paragraph four of subsection (k) of section three thousand two~~
29 ~~hundred twenty-one of this article, and subparagraph (D) of paragraph~~
30 ~~two of subsection (a) of section four thousand three hundred three of~~
31 ~~this chapter]~~ subsection (b) of section six hundred three of the finan-
32 cial services law.

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