The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Cooper.

DIGEST

SB 7 Original 2020 First Extraordinary Session Talbot

Proposed law provides that an insured shall have the right to assign, in writing, any benefits payable under health insurance coverage, including any legal or contractual rights flowing from such coverage, to a health care provider who files claims with a health insurance issuer for medical services provided to the insured, beneficiary, subscriber, or enrollee.

Proposed law requires that a health insurance issuer recognize any such assignment of benefits to a health care provider and shall not include any language or provisions prohibiting any such assignment in any form, contract, policy, subscriber agreement, certificate of coverage, or other evidence of health insurance coverage.

Proposed law provides that an insurance contract or other evidence of health insurance coverage shall not prohibit, and claims forms shall provide an option for the payment of benefits directly to a licensed hospital, licensed ambulance provider, physician, dentist, or other health care provider who provided the medical services in accordance with the provisions the insurance contract for care provided.

Proposed law establishes a dispute resolution process by which a dispute for a bill for emergency services or a surprise bill may be resolved. Grants the Louisiana Department of Insurance the power to grant certifications of independent dispute resolution entities to conduct the dispute resolution process.

Proposed law excludes health care services, including emergency services, where physician fees are subject to schedules or other monetary limitations under any other law, including, but not limited to, workers' compensation, Medicaid, Medicare, or to health insurance plans that are subject to the Employee Retirement Income Security Act of 1974 from the provisions of the proposed law.

Proposed law excludes from the provisions of the proposed law certain emergency services billed under the American Medical Association Current Procedural Terminology codes 99281 through 99285, 99288, 99291 through 99292, 99217 through 99220, 99224 through 99226, and 99234 through 99236, when all the following criteria are met:

(1) The amount billed for any Current Procedural Terminology code is less than a threshold amount that shall equal the amount from the prior year, beginning with $650, adjusted by the average of the annual average inflation rates for the medical care commodities and medical care services components of the consumer price index. In no event shall the threshold amount exceed $1,200.

(2) The amount billed for the Current Procedural Terminology code does not exceed 120% of

the usual and customary cost for that Current Procedural Terminology code.

Proposed law provides that when a health insurance issuer receives a bill for emergency services or a surprise bill with an assignment of benefits from a nonparticipating physician, the health insurance issuer shall:

(1) Pay the nonparticipating physician the billed amount or attempt to negotiate reimbursement with the nonparticipating physician. If the health care plan's attempts to negotiate reimbursement for the health care services provided by the nonparticipating physician do not result in a resolution of the payment dispute, the health care plan shall pay the nonparticipating physician an amount the health care plan determines is reasonable for the health care services rendered, less the insured's copayment, coinsurance, or deductible.

(2) Provide notice to the nonparticipating physician describing how to initiate the independent dispute resolution process.

(3) Ensure that the insured shall incur no greater out-of-pocket costs for the emergency services than the insured would have incurred with a participating physician pursuant to the insured's health insurance coverage.

Proposed law provides that in determining a reasonable fee for the services rendered, an independent dispute resolution entity shall select either the health care plan's payment or the nonparticipating physician's fee. The independent dispute resolution entity shall determine which amount to select based upon the conditions and factors set forth in proposed law. Requires the determinations to be made within 30 days.

Proposed law provides that if the independent dispute resolution entity issues a determination in favor of the nonparticipating physician, the health insurance issuer shall pay the nonparticipating physician any additional amount owed within thirty days from the date of the determination.

Proposed law provides that if an insured who does not assign benefits receives a surprise bill, the insured may submit an application to the department to request resolution of the dispute regarding a fee or payment for a surprise bill by an independent dispute resolution entity. The independent dispute resolution entity shall make a determination pursuant to the provisions of proposed law within 30 days.

Proposed law provides that the determination of an independent dispute resolution entity shall be binding on the health insurance issuer, physician and patient, and shall be admissible in any court proceeding between the health insurance issuer, physician or patient, or in any administrative proceeding between this state and the physician.

Proposed law provides that when an insured assigns benefits for a surprise bill in writing to a nonparticipating physician that knows the insured is insured under health insurance coverage, the nonparticipating physician shall not bill the insured except for any applicable copayment, coinsurance, or deductible that would be owed if the insured utilized a participating physician.

Proposed law provides that in determining the appropriate amount to be paid for a health care service, an independent dispute resolution entity shall consider all relevant factors, including:

(1) Whether there is a gross disparity between the fee charged by the physician for services rendered as compared to:

(a) Fees paid to the involved physician for the same services rendered by the physician to other patients in health care plans in which the physician is not participating.

(b) In the case of a dispute involving a health care plan, fees paid by the health care plan to reimburse similarly qualified physicians for the same services in the same region who are not participating with the health care plan.

(2) The level of training, education, and experience of the physician.

(3) The physician's usual charge for comparable services with regard to patients in health care plans in which the physician is not participating.

(4) The circumstances and complexity of the particular case, including time and place of the service.

(5) Individual patient characteristics.

(6) The usual and customary cost of the service.

Proposed law provides that the nonprevailing party is required to pay the costs of the independent dispute resolution entity. Further provides that when a good faith negotiation directed by the independent dispute resolution entity results in a settlement between the health insurance issuer and nonparticipating physician, the health insurance issuer and the nonparticipating physician shall evenly divide and share the prorated cost for dispute resolution entity.

(Adds R.S. 22:1828 and 1885.1-1885.8)