

Regular Session, 2014

HOUSE BILL NO. 251

BY REPRESENTATIVES TALBOT AND SIMON

HEALTH SERVICES: Provides for transparency in prices of hospital procedures, treatments, and other health care services

1 AN ACT

2 To amend and reenact R.S. 40:1300.112(introductory paragraph), to enact Part I-A of
3 Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised
4 of R.S. 40:2031 through 2039, and to repeal R.S. 40:2010, relative to consumer
5 information concerning prices of certain health care services and health care facility
6 policies; to provide for legislative intent; to prohibit hospitals from assessing certain
7 charges; to provide for duties of the Department of Health and Hospitals; to provide
8 for requirements of hospitals and ambulatory surgical centers; to provide for
9 classification and reporting of charges by certain health care providers; to require
10 disclosure of charity care policies and costs by certain health care providers; to
11 require the Department of Health and Hospitals to publish information on health care
12 service pricing and health care facility policies; to provide for promulgation of rules;
13 and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 40:1300.112(introductory paragraph) is hereby amended and
16 reenacted and Part I-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950,
17 comprised of R.S. 40:2031 through 2039, is hereby enacted to read as follows:

1 §1300.112. Data collection; powers and duties of the Department of Health and
2 Hospitals

3 ~~The~~ In addition to the requirements of R.S. 40:2032 et seq. relative to
4 collection of data on prices charged for certain health care procedures, the
5 Department of Health and Hospitals, in consultation with the Health Data Panel,
6 shall:

7 * * *

8 PART I-A. TRANSPARENCY IN HOSPITAL

9 AND SURGICAL CENTER PRICES AND POLICIES

10 SUBPART A. BILLED SERVICES BY HOSPITALS

11 ~~§2010. §2031.~~ Itemized statement of billed services by hospitals; prohibited charges

12 A. Not later than ten business days after the date of discharge, each hospital
13 in the state which is licensed by the Department of Health and Hospitals shall have
14 available an itemized statement of billed services for individuals who have received
15 the services from the hospital. The availability of the statement shall be made known
16 to each individual who receives service from the hospital before the individual is
17 discharged from the hospital, and a duplicate copy of the billed services statement
18 shall be presented to each patient within the specified ~~ten-day~~ ten-day period. No
19 insurance company, employee benefit trust, self-insurance plan, or other entity which
20 is obligated to reimburse the individual or to pay for him or on his behalf the charges
21 for the services rendered by the hospital shall pay those benefits to the individual
22 when the itemized statement submitted to such entity clearly indicates that the
23 individual's rights to those benefits have been assigned to the hospital. When any
24 insurance company, employee benefit trust, self-insurance plan, or other entity has
25 notice of such assignment prior to such payment, any payment to the insured shall
26 not release said entity from liability to the hospital to which the benefits have been
27 assigned, nor shall such payment be a defense to any action by the hospital against
28 that entity to collect the assigned benefits. However, an interim statement shall be
29 provided when requested by the patient or his authorized agent.

1 B. It shall be unlawful for any hospital to charge or accept payment for any
2 health care procedure or component of any health care procedure that it did not
3 perform or supply.

4 SUBPART B. PRICE TRANSPARENCY

5 §2032. Legislative intent

6 It is the intent of the legislature to improve transparency in prices of health
7 care services through requiring provision of information to the public on the costs
8 of the most frequently reported diagnosis-related groups for hospital inpatient care,
9 and for the most common surgical procedures and imaging procedures provided in
10 hospital outpatient settings and ambulatory surgical centers.

11 §2033. Definitions

12 As used in this Subpart, the following terms have the meaning ascribed to
13 them in this Section:

14 (1) "Ambulatory surgical center" means a facility licensed as an ambulatory
15 surgical center pursuant to the provisions of Part IV of this Chapter (R.S. 40:2131
16 et seq.).

17 (2) "CPT" means the Current Procedural Terminology set of medical codes
18 maintained by the American Medical Association.

19 (3) "Department" means the Department of Health and Hospitals.

20 (4) "DRG" means the diagnosis-related group system of classifying types of
21 inpatient hospital stays for the purposes of billing and payment.

22 (5) "HCPCS" means the Healthcare Common Procedure Coding System
23 utilized in the Medicare and Medicaid programs.

24 (6) "Health insurer" means an insurance company or other entity authorized
25 to transact and currently transacting health insurance business in this state, provided
26 that "health insurer" shall not include self-insured plans or group health plans as
27 defined in Section 607(1) of the Employee Retirement Income Security Act of 1974.

28 (7) "Hospital" means a facility licensed as a hospital pursuant to the
29 provisions of Part II of this Chapter (R.S. 40:2100 et seq.).

1 (8) "Public or private third party" means an entity that functions as a third-
2 party payer for a health care service and may include the state, the federal
3 government, an employer, a health insurer, a third-party administrator, or a managed
4 care organization.

5 §2034. General requirements

6 The department shall make available to the public on its Internet website the
7 most current price information it receives from hospitals and ambulatory surgical
8 centers pursuant to the requirements of this Subpart. The department shall provide
9 this information in a manner that is easily understood by the public and meets all of
10 the following minimum requirements:

11 (1) Price information for each hospital is listed separately and hospitals are
12 listed in groups by major category as established by the department in rule.

13 (2) Information for each hospital outpatient department and each ambulatory
14 surgical facility is listed separately.

15 §2035. Ownership of data

16 All data disclosed to the department by a hospital or ambulatory surgical
17 center pursuant to the requirements of this Subpart shall be and shall remain the sole
18 property of the facility that submitted the data. Any data or product derived from
19 data disclosed pursuant to this Subpart, including a consolidation or analysis of the
20 data, shall be and shall remain property of the state. The department shall not allow
21 proprietary information it receives pursuant to this Subpart to be used by a person
22 or entity for any commercial purpose.

23 §2036. Disclosure of prices for most frequently reported codes; duties of hospitals,
24 ambulatory surgical centers, and the Department of Health and Hospitals

25 A.(1) Beginning with the quarter ending December 31, 2014, and quarterly
26 thereafter, each hospital shall provide, utilizing electronic health records software,
27 the following information to the department concerning the one hundred most
28 frequently reported admissions by DRG for inpatients:

1 (a) The amount that will be charged to a patient for each DRG if all charges
2 are paid in full without a public or private third party paying for any portion of the
3 charges.

4 (b) The average negotiated settlement on the amount that will be charged to
5 a patient as provided for in Subparagraph (a) of this Paragraph.

6 (c) The total amount of Medicaid reimbursements for each DRG, including
7 claims and pro rata supplemental payments.

8 (d) The total amount of Medicare reimbursements for each DRG.

9 (e) For the five largest health insurers providing payment to the hospital on
10 behalf of insured patients, the range of the total amount of payments made for each
11 DRG. Prior to providing this information to the department, each hospital shall
12 redact the names of the health insurers and any other information that would identify
13 those insurers.

14 (2) In accordance with Subsection C of this Section, the department shall
15 establish by rule the listing of the one hundred most frequently reported admissions
16 provided for in this Subsection.

17 B.(1) Beginning with the quarter ending March 31, 2015, and quarterly
18 thereafter, each hospital and ambulatory surgical center shall provide to the
19 department, utilizing electronic health records software, information on the total
20 costs for the twenty most common surgical procedures and the twenty most common
21 imaging procedures, by volume, performed in hospital outpatient settings or in
22 ambulatory surgical centers, along with the related CPT and HCPCS codes.

23 (2) Hospitals and ambulatory surgical centers shall report the information
24 required by this Subsection in the same manner as prescribed in Subsection A of this
25 Section.

26 (3) In accordance with Subsection C of this Section, the department shall
27 establish by rule the listing of the twenty most common surgical procedures and the
28 twenty most common imaging procedures provided for in this Subsection.

1 C. The department shall adopt all rules in accordance with the
2 Administrative Procedure Act on or before December 1, 2014, as are necessary to
3 ensure the proper implementation of the provisions of this Section, and to ensure that
4 hospitals and ambulatory surgical centers report the information required herein to
5 the department in a uniform manner. The rules shall provide, at minimum, the
6 following:

7 (1) A listing of the one hundred most frequently reported DRGs for
8 inpatients for which hospitals shall provide the data required by Subsection A of this
9 Section.

10 (2) Specific major categories by which the department groups hospitals for
11 the purpose of disclosing hospital price information to the public on the department's
12 Internet website.

13 (3) The list of the twenty most common surgical procedures, by volume,
14 performed in a hospital outpatient setting and those performed in an ambulatory
15 surgical center, along with the related CPT and HCPCS codes.

16 (4) The list of the twenty most common imaging procedures, by volume,
17 performed in a hospital outpatient setting and those performed in an ambulatory
18 surgical center, along with the related CPT and HCPCS codes.

19 §2037. Provision of cost information to patients; requirements

20 A. Upon request of a patient for a particular DRG, imaging procedure, or
21 surgery procedure to which the reporting requirements of this Subpart applies, a
22 hospital or ambulatory surgical center shall furnish the cost information required by
23 this Subpart to the patient in writing.

24 B. The hospital or ambulatory surgical center shall provide such cost
25 information within three business days after receiving the request of a patient, and
26 may furnish the information to the patient either electronically or by mail.

1 SUBPART C. DISCLOSURE OF CHARITY CARE

2 POLICY AND COSTS

3 §2038. Definitions

4 As used in this Subpart, the following terms have the meaning ascribed to
5 them in this Section:

6 (1) "Financial assistance costs" means the costs reported by a health care
7 provider on Schedule H of IRS Form 990 related to the provider's financial
8 assistance at cost, the amounts related to the provider's bad debt expense, and the
9 estimated amount of the provider's bad debt expense attributable to patients eligible
10 under the organization's financial assistance policy.

11 (2) "Financial assistance policy" means a policy that meets the requirements
12 of Section 501(r) of the Internal Revenue Code.

13 §2039. Disclosure of charity care policy and costs; publication by the department

14 A. The provisions of this Subpart apply exclusively to hospitals and
15 ambulatory surgical centers that file Internal Revenue Service (IRS) Form 990,
16 "Return of Organization Exempt From Income Tax", and that are required to
17 complete and attach Schedule H thereto.

18 B.(1) Each hospital and ambulatory surgical center subject to the provisions
19 of this Subpart shall make publicly available, in the manner prescribed in this
20 Subsection, its financial assistance policy and its annual financial assistance costs as
21 reported on Schedule H of its most recently filed IRS Form 990.

22 (2)(a) At least annually, each hospital and ambulatory surgical center subject
23 to the provisions of this Subpart shall submit the information provided for in
24 Paragraph (1) of this Subsection to the department in the time, manner, and format
25 required by the department.

26 (b) Each hospital and ambulatory surgical center subject to the provisions of
27 this Subpart shall post the information provided for in Paragraph (1) of this
28 Subsection in a conspicuous location in its place of business.

1 C. The department shall publish on its Internet website the information it
2 receives from hospitals and ambulatory surgical centers pursuant to the provisions
3 of this Section.

4 Section 2. R.S. 40:2010 is hereby repealed in its entirety.

5 Section 3. On or before October 1, 2014, the Department of Health and Hospitals
6 shall communicate the requirements of this Act to all hospitals licensed pursuant to the
7 Hospital Licensing Law (R.S. 40:2100 et seq.), and to all ambulatory surgical centers
8 licensed pursuant to the Ambulatory Surgical Centers Licensing Law (R.S. 40:2131 et seq.).

9 Section 4. The Louisiana State Law Institute is hereby authorized and requested to
10 redesignate, in accordance with the provisions of the Act which originated as House Bill No.
11 ____ of this 2014 Regular Session of the Legislature, the number of any Section of statute
12 amended by this Act and recodified by the provisions of the Act which originated as House
13 Bill No. ____ of this 2014 Regular Session of the Legislature.

14 Section 5. This Act shall become effective upon signature by the governor or, if not
15 signed by the governor, upon expiration of the time for bills to become law without signature
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
18 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Talbot

HB No. 251

Abstract: Provides for transparency in prices of hospital procedures, treatments, and other health care services through required reporting of information to the public on costs of the most frequently delivered types of such health care services.

General Provisions

Proposed law provides that the intent of proposed law is to improve transparency in prices of health care services through requiring provision of information to the public on costs of the most frequently reported diagnosis-related groups for hospital inpatient care, and for the most common surgical procedures and imaging procedures provided in hospital outpatient settings and ambulatory surgical centers.

Proposed law retains and relocates present law relative to itemized statements of billed services by hospitals.

Proposed law establishes that it shall be unlawful for any hospital to charge or accept payment for any health care procedure or component of any health care procedure that it did not perform or supply.

Provisions Relative to Price Transparency

Proposed law requires the Dept. of Health and Hospitals (DHH) to make available to the public on its website the most current price information it receives from hospitals and ambulatory surgical centers pursuant to the requirements of proposed law. Further requires that DHH provide this information in a manner that is easily understood and meets all of the following minimum requirements:

- (1) Price information for each hospital is listed separately and hospitals are listed in groups by major category as established by the department in rule.
- (2) Information for each hospital outpatient department and each ambulatory surgical facility is listed separately.

Proposed law stipulates all of the following relative to data disclosed to DHH pursuant to proposed law:

- (1) All data disclosed to DHH by a hospital or ambulatory surgical center pursuant to the requirements of proposed law shall be and shall remain the sole property of the facility that submitted the data.
- (2) Any data or product derived from data disclosed pursuant to proposed law, including a consolidation or analysis of the data, shall be and shall remain property of the state.
- (3) DHH shall not allow proprietary information it receives pursuant to proposed law to be used by a person or entity for any commercial purpose.

Beginning with the quarter ending Dec. 31, 2014, and quarterly thereafter, proposed law requires each hospital to provide, utilizing electronic health records software, the following information to DHH concerning the 100 most frequently reported inpatient admissions:

- (1) The amount that will be charged to a patient for each diagnosis-related group ("DRG") if all charges are paid in full without a public or private third party paying for any portion of the charges.
- (2) The average negotiated settlement on the amount that will be charged to a patient for each DRG if all charges are paid in full without a public or private third party paying for any portion of the charges.
- (3) The total amount of Medicaid reimbursements for each DRG, including claims and pro rata supplemental payments.
- (4) The total amount of Medicare reimbursements for each DRG.
- (5) For the five largest health insurers providing payment to the hospital on behalf of insured patients, the range of the total amount of payments made for each DRG, with the names of the health insurers and any other information that would identify those insurers redacted.

Beginning with the quarter ending March 31, 2015, and quarterly thereafter, proposed law requires each hospital and ambulatory surgical center to provide to DHH, utilizing electronic health records software, information on the following:

- (1) Total costs for the 20 most common surgical procedures performed in hospital outpatient settings or in ambulatory surgical centers, along with the related Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes.
- (2) Total costs for the 20 most common imaging procedures performed in hospital outpatient settings or in ambulatory surgical centers, along with the related CPT and HCPCS codes.

Proposed law requires DHH to adopt rules in accordance with the APA on or before Dec. 1, 2014, as are necessary to ensure that proposed law is properly implemented. Provides that such rules shall include, at minimum:

- (1) A listing of the 100 most frequently reported DRGs for inpatients on which hospitals are required to provide data.
- (2) Specific major categories by which DHH groups hospitals for the purpose of disclosing hospital price information to the public on its website.
- (3) The list of the 20 most common surgical procedures performed in a hospital outpatient setting and those performed in an ambulatory surgical center, along with the related CPT and HCPCS codes.
- (4) The list of the 20 most common imaging procedures performed in a hospital outpatient setting and those performed in an ambulatory surgical center, along with the related CPT and HCPCS codes.

Proposed law requires that upon request of a patient for a particular DRG, imaging procedure, or surgery procedure to which the reporting requirements of proposed law applies, a hospital or ambulatory surgical center shall furnish the cost information required by proposed law to the patient in writing within three business days.

Provisions Relative to Charity Care Policies and Costs

Proposed law stipulates that provisions of proposed law relative to disclosure of charity care policy and costs apply exclusively to hospitals and ambulatory surgical centers that file Internal Revenue Service (IRS) Form 990, "Return of Organization Exempt From Income Tax", and that are required to complete and attach Schedule H to that form.

Proposed law provides that in provisions of proposed law relative to disclosure of charity care policy and costs, the following definitions apply:

- (1) "Financial assistance costs" means the costs reported by a health care provider on Schedule H of IRS Form 990 related to the provider's financial assistance at cost, the amounts related to the provider's bad debt expense, and the estimated amount of the provider's bad debt expense attributable to patients eligible under the organization's financial assistance policy.
- (2) "Financial assistance policy" means a policy that meets the requirements of Section 501(r) of the Internal Revenue Code.

Proposed law requires each hospital and ambulatory surgical center subject to the provisions of proposed law relative to disclosure of charity care policy and costs to:

- (1) Make publicly available its financial assistance policy and its annual financial assistance costs as reported on Schedule H of its most recently filed IRS Form 990.
- (2) At least annually, submit to DHH the information provided for in proposed law in the time, manner, and format required by the department.
- (3) Post the information provided for in proposed law in a conspicuous location in its place of business.

Proposed law requires DHH to publish on its website the information it receives from hospitals and ambulatory surgical centers pursuant to proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1300.112(intro. para.); Adds R.S. 40:2031-2039; Repeals R.S. 40:2010)