

Regular Session, 2012

SENATE BILL NO. 310

BY SENATOR LAFLEUR

HEALTH/ACC INSURANCE. Provides relative to balance billing by noncontracted providers of emergency medical services. (gov sig)

1 AN ACT

2 To enact R.S. 22:1882 and to repeal R.S.22:1826, relative to noncontracted providers of
3 emergency medical services; to provide for definitions; to provide with respect to
4 reimbursement of such providers by health insurance issuers; to provide for binding
5 arbitration in certain circumstances; to provide for an effective date; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1882 is hereby enacted to read as follows:

9 **§1882. Payment of claims for emergency medical services provided by**
10 **noncontracted health care providers**

11 **A. For purposes of this Section:**

12 **(1) "Emergency medical condition" means a medical condition of recent**
13 **onset and severity, including severe pain, that would lead a prudent layperson,**
14 **acting reasonably and possessing an average knowledge of health and medicine,**
15 **to believe that the absence of immediate medical attention could reasonably be**
16 **expected to result in:**

17 **(a) Placing the health of the individual, or with respect to a pregnant**

1 woman the health of the woman or her unborn child, in serious jeopardy.

2 (b) Serious impairment to bodily function.

3 (c) Serious dysfunction of any bodily organ or part.

4 (2) "Emergency medical services" means those medical services
5 necessary to screen, evaluate, and stabilize an emergency medical condition.

6 B.(1) If a health care provider that does not contract with a health
7 insurance issuer files a claim with a health insurance issuer for emergency
8 medical services rendered to an enrollee or insured, the health insurance issuer
9 shall directly pay such claim by the noncontracted health care provider and
10 shall reimburse the noncontracted health care provider in an amount not less
11 than the greatest of the following:

12 (a) The amount negotiated with contracted health care providers for
13 emergency medical services that are imposed with respect to the enrollee or
14 insured, excluding any applicable in-network coinsurance, copayments,
15 deductibles, noncovered services, or any other amounts identified by the health
16 insurance issuer pursuant to plan or policy provisions as an amount for which
17 the enrollee or insured is liable.

18 (b) The amount of the emergency medical service calculated using the
19 same method the health insurance issuer uses to determine payments for
20 out-of-network health care services, provided, however, that the calculation
21 shall utilize the in-network cost-sharing provisions instead of the out-of-network
22 cost-sharing provisions.

23 (c) The amount that would be paid under Medicare for the emergency
24 medical services, excluding any applicable in-network coinsurance, copayments,
25 deductibles, noncovered services, or any other amounts identified by the health
26 insurance issuer pursuant to plan or policy provisions as an amount for which
27 the enrollee or insured is liable.

28 (2)(a) For capitated or other health insurance issuers that do not have a
29 negotiated per-service amount for contracted health care providers,

1 **Subparagraph (B)(1)(a) of this Section shall not apply.**

2 **(b) If a health insurance issuer has more than one negotiated amount for**
3 **contracted health care providers for a particular emergency medical service,**
4 **the amount in Subparagraph (B)(1)(a) of this Section shall be the median of**
5 **these negotiated amounts.**

6 **(3) Payment of such claim by a health insurance issuer shall in no**
7 **circumstance be made directly to a patient, enrollee, or insured.**

8 **C.(1) Notwithstanding any other provision of law to the contrary, in the**
9 **case where a noncontracted health care provider fails to file a claim with a**
10 **health insurance issuer for emergency medical services rendered to an enrollee**
11 **or insured, the enrollee or insured shall be indemnified and held harmless by**
12 **the health insurance issuer for such claim. The health insurance issuer shall be**
13 **liable for reimbursement to the noncontracted health care provider for the**
14 **emergency medical services, except for any applicable in-network coinsurance,**
15 **copayments, deductibles, noncovered services, or any other amounts identified**
16 **by the health insurance issuer pursuant to plan or policy provisions as an**
17 **amount for which the enrollee or insured is liable. A noncontracted health care**
18 **provider shall be prohibited from billing an enrollee or insured for**
19 **reimbursement for emergency medical services, except for any applicable**
20 **in-network coinsurance, copayments, deductibles, noncovered services, or any**
21 **other amounts identified by the health insurance issuer pursuant to plan or**
22 **policy provisions as an amount for which the enrollee or insured is liable.**

23 **(2) If the attempts between the health insurance issuer and the**
24 **noncontracted health care provider to negotiate or complete payment to the**
25 **noncontracted health care provider for emergency medical services rendered**
26 **to an enrollee or insured do not result in resolution of the payment dispute**
27 **within thirty days after receipt of a written explanation of benefits by the health**
28 **insurance issuer, then the health insurance issuer or the noncontracted health**
29 **care provider may initiate binding arbitration to determine payment of the**

1 subject emergency medical services. The party initiating arbitration shall notify
 2 the other party that arbitration has been initiated and state its final offer before
 3 arbitration begins. In response to this notice, the party not initiating arbitration
 4 shall inform the party initiating arbitration of its final offer before arbitration
 5 begins.

6 D. The provisions of this Section shall not apply to limited benefit health
 7 plans, policies, or contracts.

8 Section 2. R.S. 22:1826 is hereby repealed in its entirety.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

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

DIGEST

Present law authorizes a health care provider that does not contract with a health insurance issuer to file a claim with a health insurance issuer for emergency services rendered. Requires the health insurance issuer to directly pay such a claim by a noncontracted provider in the amount as determined pursuant to the plan or policy provisions between the enrollee or insured and the health insurance issuer for such emergency services, less any amount representing copayments, deductibles, or noncovered services, or any other amounts identified by the health insurance issuer pursuant to the plan or policy as an amount for which the insured or enrollee is liable.

Proposed law deletes present law.

Proposed law provides with respect to reimbursement of noncontracted providers of emergency services as follows:

- (1) Defines the terms "emergency medical condition" and "emergency medical services".
- (2) Provides that if a health care provider that does not contract with a health insurance issuer files a claim with a health insurance issuer for emergency medical services rendered to an enrollee or insured, the health insurance issuer shall directly pay such claim by the noncontracted health care provider and shall reimburse the noncontracted health care provider in an amount not less than the greatest of one of the following:
 - (a) The amount negotiated with contracted health care providers for emergency

medical services that are imposed with respect to the enrollee or insured, excluding any applicable amounts identified by the health insurance issuer pursuant to plan or policy provisions as an amount for which the enrollee or insured is liable.

- (b) The amount of the emergency medical service calculated using the same method the health insurance issuer uses to determine payments for out-of-network health care services, but using the in-network cost-sharing provisions instead of the out-of-network cost-sharing provisions.
 - (c) The amount that would be paid under Medicare for the emergency medical services, excluding any applicable amounts for which the enrollee or insured is liable.
- (3) Further provides that for capitated or other health insurance issuers that do not have a negotiated per-service amount for contracted health care providers, (2)(a) above shall not apply. Further provides that if a health insurance issuer has more than one negotiated amount for contracted health care providers for a particular emergency medical service, the amount in (2)(a) above shall be the median of these negotiated amounts.

Present law prohibits payment of any claim by a health insurance issuer directly to a patient, enrollee, or insured.

Proposed law retains present law.

Proposed law additionally provides that in the case where a noncontracted health care provider fails to file a claim with a health insurance issuer for emergency medical services rendered to an enrollee or insured, the enrollee or insured shall be indemnified and held harmless by the health insurance issuer for such claim. Makes the health insurance issuer liable for reimbursement to the noncontracted health care provider for the emergency medical services, except for any applicable amounts which the enrollee or insured is liable. Prohibits a noncontracted health care provider from billing an enrollee or insured for reimbursement for emergency medical services, except for any applicable amounts for which the enrollee or insured is liable.

Proposed law also provides that if the attempts between the health insurance issuer and the noncontracted health care provider to negotiate or pay the noncontracted health care provider for emergency medical services rendered to an enrollee or insured do not result in resolution of the payment dispute within 30 days after receipt of a written explanation of benefits by the health insurance issuer, then the health insurance issuer or the noncontracted health care provider may initiate binding arbitration to determine payment of the subject emergency medical services. Requires the party initiating arbitration to notify the other party that arbitration has been initiated and state its final offer before arbitration occurs. In response to this notice, requires the party not initiating arbitration to inform the party not initiating arbitration of its final offer before arbitration occurs.

Present law exempts limited benefit health insurance policies or contracts from its provisions.

Proposed law retains this exemption.

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

(Adds R.S. 22:1882; repeals R.S. 22:1826)