

EXHIBIT NO. 1  
DATE: 3.27.13  
BILL NO. HB 450

Explanation of Amendments to HB 450

1. Strikes the retroactive applicability reference in the title of the bill.
2. Inserts a new subsection (2) into the bill to clarify that any payments made by a property and casualty insurer for medical expenses are credited toward the injured person's deductible on their health policy, so long as the medical expenses would have been covered under the terms of the health policy.
3. Adds a sentence to old subsection (2) (new subsection (3)) stating that the insurer may negotiate the payment amount with the provider and make a reasonable request for documentation of the claim.
4. This codification instruction was inadvertently left out of the first draft of the bill, and this amendment fixes that. It provides that the bill shall also be codified in Title 2, chapter 18, part 9 which ensures the bill applies to health plans offered by local governments, and the MMIA.
5. Strikes the retroactive applicability section of the bill.

HOUSE BILL NO. 450

INTRODUCED BY HAGAN, KNUDSEN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PRIORITIES REGARDING INSURANCE PAYERS FOR MEDICAL CARE AFTER MOTOR VEHICLE ACCIDENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND A RETROACTIVE APPLICABILITY DATE.~~"

WHEREAS, over the past 30 months, health care providers in Montana, including St. James Healthcare in Butte and Community Medical Center in Missoula, have been sued in at least nine class action lawsuits involving patients who had been injured in motor vehicle accidents in which multiple insurance policies were involved, including liability, medical pay, uninsured motorist, underinsured motorist, and health insurance policies; and

WHEREAS, the lawsuits challenge the ability of a health care provider to be reimbursed in a timely manner for the actual cost of providing health care to injured parties who often arrive for treatment at the emergency entrance of a facility; and

WHEREAS, the hospitals were involved in the underlying lawsuits because of their compliance with preferred provider agreements, including the military's third-party payer, TRICARE; and

WHEREAS, in the Estate of Donald v. Kalispell Regional Medical Center, 2011 MT 166, 361 Mont. 179, the Montana Supreme Court determined that the Montana Medicaid Program required the defendant hospital to seek payment first from third-party insurers with the Medicaid Program providing health care coverage as the "payer of last resort"; and

WHEREAS, legislation is necessary to clarify the order of payment consistent with the holdings in Estate of Donald and Blanton v. Department of Public Health and Human Services, 2011 MT 110, 360 Mont. 396, to require a health insurance or health benefits policy to be the payer of last resort; and

WHEREAS, failure to enact legislation could result in significant health care cost shifts to the private sector and significant layoffs of health care workers because of unanticipated and substantial litigation costs and potential damage awards against health care providers and facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Priority of payment. ~~(1) If coverage exists under one or more motor vehicle liability policies and one or more disability insurance policies, member contracts, health benefit plans, or group health plans, payment must be made under policies in the following descending order of priority after a motor vehicle accident.~~ AFTER A MOTOR VEHICLE ACCIDENT, IF COVERAGE EXISTS UNDER ONE OR MORE MOTOR VEHICLE LIABILITY POLICIES AND ONE OR MORE DISABILITY INSURANCE POLICIES, MEMBER CONTRACTS, HEALTH BENEFIT PLANS, OR GROUP HEALTH PLANS, PAYMENT MUST BE MADE IN THE FOLLOWING ORDER OF PRIORITY:

- (a) a policy covering a motor vehicle that was the cause of bodily injury, sickness, disease, or death;
- (b) a policy covering a motor vehicle that was occupied by a person injured at the time of the motor vehicle accident;
- (c) a policy covering a motor vehicle that was not involved in the motor vehicle accident but that provides coverage to the injured person; and
- (d) a disability insurance policy, member contract, health benefit plan, group health plan, blanket disability insurance policy as defined in 33-22-601, or other medical coverage for the injured person if any exist.

(2) AN INSURER MAKING PAYMENT ON A CLAIM UNDER THE DISABILITY INSURANCE POLICY, MEMBER CONTRACT, HEALTH BENEFIT PLAN, GROUP HEALTH PLAN, BLANKET DISABILITY INSURANCE POLICY AS DEFINED IN 33-22-601, OR OTHER MEDICAL COVERAGE SHALL CREDIT TOWARD SATISFACTION OF THE INSURED'S DEDUCTIBLE, COPAYMENT, OR COINSURANCE, IF ANY, ANY PAYMENT MADE BY A CASUALTY OR PROPERTY INSURER, BUT ONLY IF THE PAYMENT TO BE CREDITED IS APPLIED TO A COVERED MEDICAL EXPENSE UNDER THE TERMS OF THE APPLICABLE HEALTH POLICY.

(3) Except as otherwise agreed in writing, ~~medical bills must be paid in the full amount of the billed charges~~ COVERED MEDICAL EXPENSES MUST BE PAID ACCORDING TO THE TERMS OF THE APPLICABLE POLICY. NOTHING IN THIS SECTION PROHIBITS A PAYOR FROM NEGOTIATING THE AMOUNT OF THE BILL CHARGES OR MAKING A REASONABLE REQUEST FOR ADDITIONAL INFORMATION OR DOCUMENTS IN ORDER TO EVALUATE THE CLAIM.

(4) SUBJECT TO THE TERMS OF THE APPLICABLE POLICY, CLAIMS MADE UNDER THIS SECTION MUST BE PAID IN THE ORDER PRESENTED OR DEMANDED WITH SUPPORTING DOCUMENTATION EVIDENCING THE EXISTENCE AND AMOUNT OF DAMAGES. CLAIMS INCLUDE BUT ARE NOT LIMITED TO MEDICAL EXPENSES AND LOST WAGES.

NEW SECTION. Section 2. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 9, part 3, and the provisions of Title 2, chapter 9, part 3, apply to [section 1].

(2) [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 2, CHAPTER 18, PART 9, AND THE PROVISIONS OF TITLE 2, CHAPTER 18, PART 9, APPLY TO [SECTION 1].

(3) [Section 1] is intended to be codified as an integral part of Title 20, chapter 25, part 13, and the provisions of Title 20, chapter 25, part 13, apply to [section 1].

(34) [Section 1] is intended to be codified as an integral part of Title 20, chapter 25, part 14, and the provisions of Title 20, chapter 25, part 14, apply to [section 1].

(45) [Section 1] is intended to be codified as an integral part of Title 33, chapter 1, part 1, and the provisions of Title 33, chapter 1, part 1, apply to [section 1].

(56) [Section 1] is intended to be codified as an integral part of Title 33, chapter 31, part 1, and the provisions of Title 33, chapter 31, part 1, apply to [section 1].

(67) [Section 1] is intended to be codified as an integral part of Title 33, chapter 35, part 1, and the provisions of Title 33, chapter 35, part 1, apply to [section 1].

NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

~~NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all claims that have not been resolved or settled and all occurrences for which claims have not been filed that took place on or after December 1, 2010.~~

- END -