

1 HOUSE BILL NO. 450

2 INTRODUCED BY HAGAN, KNUDSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PRIORITIES REGARDING INSURANCE PAYERS
5 FOR MEDICAL CARE AFTER MOTOR VEHICLE ACCIDENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE
6 DATE AND A RETROACTIVE APPLICABILITY DATE."
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8 WHEREAS, over the past 30 months, health care providers in Montana, including St. James Healthcare
9 in Butte and Community Medical Center in Missoula, have been sued in at least nine class action lawsuits
10 involving patients who had been injured in motor vehicle accidents in which multiple insurance policies were
11 involved, including liability, medical pay, uninsured motorist, underinsured motorist, and health insurance policies;
12 and

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

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

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

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

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

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

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

14 (2) Except as otherwise agreed in writing, ~~medical bills must be paid in the full amount of the billed~~
 15 ~~charges~~ COVERED MEDICAL EXPENSES MUST BE PAID ACCORDING TO THE TERMS OF THE APPLICABLE POLICY.

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

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

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

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

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

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

30 (6) [Section 1] is intended to be codified as an integral part of Title 33, chapter 35, part 1, and the

1 provisions of Title 33, chapter 35, part 1, apply to [section 1].

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

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

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

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

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