

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) TO THE EXTENT OF THE POLICY'S MEDICAL PAY COVERAGE LIMITS, UNDER a policy covering a motor vehicle
 8 that was the cause of bodily injury, sickness, disease, or death;

9 (b) TO THE EXTENT OF THE POLICY'S MEDICAL PAY COVERAGE LIMITS, UNDER a policy covering a motor vehicle
 10 that was occupied by a person injured at the time of the motor vehicle accident;

11 (c) TO THE EXTENT OF THE POLICY'S MEDICAL PAY COVERAGE LIMITS, UNDER a policy covering a motor vehicle
 12 that was not involved in the motor vehicle accident but that provides coverage to the injured person; and

13 (d) UNDER a disability insurance policy, member contract, health benefit plan, group health plan, blanket
 14 disability insurance policy as defined in 33-22-601, or other medical coverage for the injured person if any exist.

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

20 ~~(2)(3)~~ (3) Except as otherwise agreed in writing, ~~medical bills must be paid in the full amount of the billed~~
 21 ~~charges~~ COVERED MEDICAL EXPENSES MUST BE PAID ACCORDING TO THE TERMS OF THE APPLICABLE POLICY OR IN
 22 ACCORDANCE WITH ANY WRITTEN AGREEMENT OR CONTRACT EXISTING BETWEEN THE PROVIDER AND THE INSURER OR
 23 A PERSON CONTRACTUALLY ENGAGED BY THE INSURER TO PERFORM SERVICES OR AN INSURANCE FUNCTION FOR THE
 24 INSURER. NOTHING IN THIS SECTION PROHIBITS A PAYER ON A FIRST-PARTY OR THIRD-PARTY CLAIM FROM NEGOTIATING
 25 OR DENYING THE AMOUNT OF THE BILLED CHARGES OR MAKING A REASONABLE REQUEST FOR ADDITIONAL INFORMATION
 26 OR DOCUMENTS IN ORDER TO EVALUATE THE CLAIM.

27 ~~(3)(4)~~ (4) SUBJECT TO THE TERMS OF THE APPLICABLE POLICY, CLAIMS MADE UNDER THIS SECTION MUST BE PAID
 28 IN THE ORDER PRESENTED OR DEMANDED WITH SUPPORTING DOCUMENTATION EVIDENCING THE EXISTENCE AND AMOUNT
 29 OF DAMAGES. CLAIMS INCLUDE BUT ARE NOT LIMITED TO MEDICAL EXPENSES AND LOST WAGES.

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