

HOUSE BILL NO. 152

INTRODUCED BY K. KELKER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HEALTH CARE PROVIDER NETWORK DISCLOSURE
5 LAWS TO AVOID SURPRISE MEDICAL BILLS; PROVIDING ADDITIONAL INFORMATION AND CONTROL
6 TO HEALTH CARE CONSUMERS; PROVIDING PROCEDURES FOR INFORMING CONSUMERS ABOUT
7 OUT-OF-NETWORK HEALTH CARE COSTS AND ABOUT THE ABILITY TO OPT OUT OF SERVICES;
8 ESTABLISHING LIMITS ON A CONSUMER'S OUT-OF-NETWORK COSTS UNDER CERTAIN
9 CIRCUMSTANCES; AMENDING SECTIONS 50-4-504, 50-4-511, 50-4-512, 50-4-517, AND 50-4-518, MCA;
10 AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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14 **Section 1.** Section 50-4-504, MCA, is amended to read:
15 **"50-4-504. Definitions.** As used in this part, the following definitions apply:
16 (1) "Authorized agent" or "agent" means a person or entity:
17 (a) authorized under federal or state law to receive health care information about a patient; and
18 (b) to whom the patient has provided a written authorization to obtain information under this part on
19 behalf of the patient.
20 ~~(1)~~(2) "Health care" includes both physical health care and mental health care.
21 ~~(2)~~(3) "Health care provider" or "provider" means:
22 (a) a person an individual who is licensed, certified, or otherwise authorized by the laws of this state to
23 provide health care in the ordinary course of business or practice of a profession; or
24 (b) a hospital, outpatient center for primary care, or outpatient center for surgical services licensed
25 pursuant to Title 50, chapter 5.
26 ~~(3)~~(4) "Health insurer" means any health insurance company, health service corporation, health
27 maintenance organization, insurer providing disability insurance as described in 33-1-207, multiple employer
28 welfare arrangement authorized under Title 33, chapter 35, and to the extent permitted under federal law, any
29 administrator of an insured, self-insured, or publicly funded health care benefit plan offered by public and private
30 entities."

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Section 2. Section 50-4-511, MCA, is amended to read:

"50-4-511. Legislative purpose. The purpose of 50-4-510 through 50-4-512 is to provide health care consumers with better information on and control over the cost of their medical care and to introduce elements of competition into the marketplace."

Section 3. Section 50-4-512, MCA, is amended to read:

"50-4-512. Disclosures required of health care providers. (1) ~~(a) Upon request of a patient or a patient's agent, a~~ A health care provider, outpatient center for surgical services, clinic, or hospital shall provide ~~the shall notify a patient or the patient's authorized agent with its~~ in writing that the patient or agent may request a written ~~estimated charge for a health care service or course of treatment, surgery, or procedure that:~~

(i) exceeds \$500. The estimate must be provided for a service that a; and

(ii) the patient is receiving or has been recommended to receive.

(b) The notification must include instructions on how the patient may request or obtain the estimated charge. An online posting of an estimated or average charge for a health care treatment, surgery, or procedure may be used to provide the written estimated charge if:

(i) the estimate or average is current within the past 12 months; and

(ii) the information required under subsection (3) is also provided to the patient or patient's agent.

(2) The patient or agent may request the estimate must be provided before or at the time the service is scheduled, or The estimate must be provided within 10 business days of the patient's or agent's request or at the time the service is scheduled, whichever is sooner.

(3) When providing the estimated charge, a health care provider shall:

(a) indicate in which health insurer provider networks the health care provider participates;

(b) disclose whether any other health care providers will bill the patient for services related to the health care treatment, surgery, or procedure and the potential costs of the services that will be billed;

(c) disclose whether other health care providers may be necessary to complete the health care treatment, surgery, or procedure;

(d) indicate whether an estimate of the potential charges by other health care providers whose services may be needed must be obtained separately from those providers; and

(e) provide notice that the patient may incur additional, unforeseen costs due to complications that may

1 occur at the time of the treatment, surgery, or procedure or that may arise because of the patient's existing
 2 medical condition.

3 (4) A health care provider shall offer a patient the opportunity to opt out of receiving a health care
 4 treatment, surgery, or procedure from a health care provider who does not participate in the provider network of
 5 the patient's health insurer. If the patient opts out of using an out-of-network provider, the patient may have to
 6 reschedule or make other plans for receiving the health care treatment, surgery, or procedure.

7 (5) If without a patient's consent a health care provider uses the services of another provider who does
 8 not participate in the provider network of the patient's insurer, the out-of-network provider may bill the patient only
 9 the amount the patient would have paid for using an in-network provider.

10 (6) A health care provider shall advise patients of their rights under 50-4-518 and this section:

11 (a) in writing at the time the health care treatment, surgery, or procedure is scheduled; and

12 (b) in a notice posted in an area of the provider's office or facility where the notice is readily visible to a
 13 patient.

14 ~~(2)(7)~~ The patient or patient's agent may request that the information required under this section be
 15 provided ~~in writing~~ or electronically.

16 ~~(3)(8)~~ The estimated charge:

17 (a) must represent a good faith effort to provide accurate information to the patient or the patient's agent;

18 (b) is not a binding contract upon the parties; and

19 (c) is not a guarantee that the estimated amount will be the charged amount or will account for
 20 unforeseen conditions.

21 (9) This section does not apply to health care services provided for the treatment of an emergency
 22 medical condition."

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24 **Section 4.** Section 50-4-517, MCA, is amended to read:

25 **"50-4-517. Legislative purpose.** The purpose of 50-4-516 through 50-4-518 is:

26 (1) to provide health care consumers with better information ~~regarding on and control over~~ the portion
 27 of their health care costs that will be paid by their health insurer and the portion that they will have to pay
 28 themselves; and

29 (2) to introduce elements of competition into the marketplace."
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1 **Section 5.** Section 50-4-518, MCA, is amended to read:

2 **"50-4-518. Disclosures required of health insurers -- limitations.** (1) (a) When requested in writing
3 by an insured or the insured's authorized agent, a health insurer shall provide a written summary of the insured's
4 estimated coverage amounts for a specific health care ~~service or course of treatment, surgery, or procedure~~ when
5 an actual charge or estimate of charges by a health care provider, outpatient center for surgical services, clinic,
6 or hospital exceeds \$500.

7 (2)(b) The insured or insured's agent may request that the information required under this section be
8 provided ~~in writing or~~ electronically.

9 (c) The request by the insured or the insured's agent may be made electronically.

10 (2) The health insurer shall provide the requested information at the time the health care treatment,
11 surgery, or procedure is scheduled or within 10 business days of the request by the insured or the insured's
12 agent, whichever is sooner.

13 (3) The health insurer shall make a good faith effort to provide accurate information under this section.
14 The health insurer is only required to provide information under this section based upon cost estimates and
15 procedure codes obtained by the insured from the insured's health care provider.

16 (4) A health insurer shall advise insureds of their rights under 50-4-512 and this section in the outline
17 of coverage and in a separate written notice delivered electronically or by mail. The notice must contain a phone
18 number that an insured may call to obtain more information.

19 (5) A summary of an estimated coverage amount must include information about out-of-pocket costs
20 from health care providers who do not participate in the health insurer's provider network.

21 (6) (a) A health insurer shall inform an insured of the insured's right to opt out of receiving services from
22 a health care provider who does not participate in the insurer's provider network. The insured shall sign a form
23 provided by the scheduling health care provider to opt out of the services.

24 (b) The insurer shall provide a list of available providers who participate in the insurer's provider network,
25 are located within a reasonable distance of the insured's residence, and may be available to provide the same
26 health care treatment, surgery, or procedure.

27 (7) This section does not apply to health care services provided for the treatment of an emergency
28 medical condition."

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30 NEW SECTION. **Section 6. Effective date -- applicability.** [This act] is effective January 1, 2020, and

1 applies to health insurance plans and policies issued or renewed on or after January 1, 2020.

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