

1 HOUSE BILL NO. 499

2 INTRODUCED BY K. KELKER

3
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, 50-4-510, 50-4-511, 50-4-512, 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:

13
14 NEW SECTION. **Section 1. Network disclosure by certain providers -- limitation on billing.** (1) An
15 estimated charge provided pursuant to 50-4-512 from any of the following health care providers must also include
16 information as required under this section related to the provider's participation in health insurer networks of
17 providers:

18 (a) a physician, advanced practice registered nurse, or physician assistant; and
19 (b) a hospital, critical access hospital, outpatient center for primary care, or outpatient center for surgical
20 services.

21 (2) The estimated charge must:

22 (a) indicate in which health insurer provider networks the health care provider participates;
23 (b) disclose whether any other health care providers will bill the patient separately for services related
24 to the health care treatment, surgery, or procedure;

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

27 (d) advise a patient or agent to check with the patient's insurer to determine whether any of the known
28 health care providers who may be needed to complete the health care treatment, surgery, or procedure
29 participate in the patient's insurance network; and

30 (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 (3) An online posting of provider network information may be used to satisfy the requirements in
4 subsection (2)(a).

5 (4) A health care provider who refers a patient to another provider is not required to notify the patient
6 about the insurance network status of the provider to whom the patient is referred.

7 (5) When a patient is being transferred, in a nonemergency situation, from one hospital or outpatient
8 center for surgical services to another hospital or outpatient center for surgical services, the two facilities shall
9 coordinate efforts to ensure that the patient receives information about the insurance networks in which the
10 receiving facility participates.

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

15 (7) A provider who is not in the provider network of a patient's insurer may bill the patient only the amount
16 the patient would have paid for using an in-network provider if:

17 (a) without the patient's consent, a health care provider originally scheduled to provide services to the
18 patient uses the services of the out-of-network provider;

19 (b) at the last minute, when the patient is already undergoing a procedure, treatment, or surgery, the
20 out-of-network provider is substituted for an in-network provider who is not able to be present; and

21 (c) the out-of-network provider knew at the time the services were provided that the provider was not in
22 the patient's insurance network.

23 (8) This section does not apply to:

24 (a) a health care treatment, surgery, or procedure provided for the treatment of an emergency condition;

25 or

26 (b) the provision of any health care service, including but not limited to a biopsy or laboratory test, during
27 or following a scheduled procedure if the service was emergent or medically required under circumstances
28 discovered during the procedure.

29

30 **NEW SECTION. Section 2. Notification.** (1) A health care provider shall provide notification of a

1 patient's right to request an estimate of charges and, if applicable, information on the insurance network in which
2 a provider participates.

3 (2) The notification must be made verbally and through publicly posted notices. The notices must be
4 posted in readily visible areas:

5 (a) in each of the health care provider's patient registration areas; and

6 (b) on the provider's website if the provider has a website.

7

8 **Section 3.** Section 50-4-504, MCA, is amended to read:

9 **"50-4-504. Definitions.** As used in this part, the following definitions apply:

10 (1) "Authorized agent" or "agent" means a person or entity:

11 (a) authorized under federal or state law to receive health care information about a patient; and

12 (b) to whom the patient has provided a written authorization to obtain information under this part on
13 behalf of the patient.

14 ~~(1)~~(2) "Health care" includes both physical health care and mental health care.

15 ~~(2)~~(3) "Health care provider" or "provider" means:

16 (a) ~~a person~~ an individual who is licensed, certified, or otherwise authorized by the laws of this state to
17 provide health care in the ordinary course of business or practice of a profession; and

18 (b) a hospital, critical access hospital, outpatient center for primary care, or outpatient center for surgical
19 services as those terms are defined in 50-5-101.

20 ~~(3)~~(4) "Health insurer" or "insurer" means any health insurance company, health service corporation,
21 health maintenance organization, insurer providing disability insurance as described in 33-1-207, and to the
22 extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care
23 benefit plan offered by public and private entities."

24

25 **Section 4.** Section 50-4-510, MCA, is amended to read:

26 **"50-4-510. Short title.** Sections 50-4-510 through 50-4-512 and [sections 1 and 2] may be cited as the
27 "Patient's Right to Know the Costs of Medical Procedures Act"."

28

29 **Section 5.** Section 50-4-511, MCA, is amended to read:

30 **"50-4-511. Legislative purpose.** The purpose of 50-4-510 through 50-4-512 and [sections 1 and 2] is

1 to provide health care consumers with better information on the cost of and control over their medical care and
 2 to introduce elements of competition into the marketplace."

3

4 **Section 6.** Section 50-4-512, MCA, is amended to read:

5 **"50-4-512. Disclosures required of health care providers.** (1) ~~(a) Upon request of a patient or a~~
 6 ~~patient's agent, a~~ A health care provider, outpatient center for surgical services, clinic, or hospital shall provide
 7 the shall notify a patient or the patient's authorized agent with its that the patient or agent may request a written
 8 estimated charge for a health care service or course of treatment, surgery, or procedure that exceeds \$500. The
 9 estimate must be provided for a service that a patient is receiving or has been recommended to receive.

10 (b) A provider shall provide the estimated charge, if requested, for a treatment, surgery, or procedure
 11 the patient is receiving from the health care provider or that the health care provider would be providing to the
 12 patient.

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

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

17 (ii) if applicable, the information required under [section 1] is also provided to the patient or the patient's
 18 agent.

19 (2) The patient or the patient's agent may request the estimate must be provided at the time before the
 20 service is scheduled or to occur. The estimate must be provided within 10 business days of the patient's or
 21 agent's request.

22 ~~(2)(3)~~ (3) The patient or the patient's agent may request that the information required under this section be
 23 provided in writing or electronically.

24 ~~(3)(4)~~ (4) The estimated charge:

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

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

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

29 (5) A health care provider who refers a patient to another provider is not required to estimate the charge
 30 of the health care treatment, surgery, or procedure that would be provided by the provider to whom the patient

1 is referred.

2 (6) This section does not apply to health care services provided for the treatment of an emergency
3 medical condition."

4

5 **Section 7.** Section 50-4-518, MCA, is amended to read:

6 **"50-4-518. Disclosures required of health insurers -- limitations.** (1) When requested by an insured
7 or the insured's authorized agent, a health insurer shall provide a summary of the insured's estimated coverage
8 amounts for a specific health care ~~service or course of treatment, surgery, or procedure~~ when an actual charge
9 or estimate of charges by a health care provider, ~~outpatient center for surgical services, clinic, or hospital~~ exceeds
10 \$500.

11 (2) The insured or insured's agent may request the information verbally or in writing, which includes
12 making the request electronically, and may request that the information required under this section be provided
13 in writing or electronically.

14 (3) (a) The health insurer shall provide the requested information within 10 business days of the request
15 by the insured or the insured's agent.

16 (b) (i) If the insurer has an online tool that allows an insured or the insured's agent to estimate the
17 insured's coverage for a health care treatment, surgery, or procedure, including deductibles and other
18 cost-sharing amounts, the online tool satisfies the requirements of subsection (1).

19 (ii) The insurer shall provide the information required under this section by an alternative means if
20 requested by an insured or an insured's agent because the person does not have access to the online tool offered
21 or the online tool does not provide information about the treatment, surgery, or procedure for which the insured
22 is seeking information.

23 (4) An insurer shall provide insureds with access to a list of providers who participate in the insurer's
24 provider network.

25 ~~(3)(5)~~ (5) The health insurer shall make a good faith effort to provide accurate information under this section.
26 The health insurer is only required to provide information under this section based upon on cost estimates and
27 procedure codes obtained by the insured from the insured's health care provider.

28 (6) A health insurer shall advise insureds of their rights under this section in the outline of coverage.

29 (7) This section does not apply to a health care treatment, surgery, or procedure provided for the
30 treatment of an emergency condition."

