SENATE BILL NO. 364

INTRODUCED BY G. HERTZ, J. GILLETTE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING ~~LIMITS ON~~ REPORTING REQUIREMENTS FOR HOSPITAL-RELATED CHARGES; PROVIDING A PENALTY; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING A ~~DELAYED EFFECTIVE DATE~~ RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. ~~Limitation on~~ Reporting of hospital-related charges -- ~~definition -- complaints --~~ penalties -- rulemaking authority.** (1) Except as provided in subsection ~~(4)~~(3), ~~a hospital-related charge for inpatient or outpatient care may not exceed 250% of the reimbursement rate allowed for the same care by the medicare program established pursuant to Title XVIII of the federal Social Security Act, 42 U.S.C. 1395, et seq.~~ each hospital licensed in this state shall report the following information to the department no later than the first day of the fifth month following the calendar yearend or the hospital's fiscal yearend:

(a) audited financial statements;

(b) a community benefit statement as required by the department by rule;

(c) the hospital's reimbursement for facility inpatient and facility outpatient health care services from payors other than government or other means-tested programs, reported as a percentage comparison to the reimbursement received for the same health care services under the medicare program;

(d) the hospital's reimbursement from each of its top 10 contracts for facility inpatient and facility outpatient health care services, reported as a percentage comparison to the reimbursement received for the same health care services under the medicare program and using a reporting method determined by the department by rule that does not require disclosure of the name of the payors; and

(e) the total volume-adjusted average percent increase or decrease in reimbursement for facility inpatient and facility outpatient health care services from the previous calendar or fiscal year, as applicable.

(2) (a) Except as provided in subsections (2)(b) and (3), a hospital that fails to comply with the

price transparency regulations of 45 CFR, part 180, is subject to a fine of $250 a day for each day of noncompliance.

(b) A penalty collected under this subsection (2) must be deposited in the state general fund.

(c) The department may waive the fine provided for in subsection (2)(a) if a hospital demonstrates compliance with the regulations within 60 days of receipt of notice from the department that it is out of compliance.

(3) The requirements of subsection (1) and the penalty provided for in subsection (2)(a) do not apply to critical access hospitals or the Montana state hospital.

~~(2) A person aggrieved by a violation of this section may file a complaint with the department. The department shall investigate the complaint as provided in 50-5-114 to determine if a violation occurred.~~

~~(3) (a) If the department finds that a hospital-related charge was billed in violation of this section, the entity billing the amount:~~

~~(i) is subject to the penalties provided for in 50-5-112; and~~

~~(ii) shall reimburse the complainant for the difference between the amount billed and the allowable amount.~~

~~(b) A person who has not yet paid the hospital-related charge that is the subject of the complaint is liable only for the amount determined by the department to be allowed under this section.~~

~~(c) If a health insurance issuer as defined in 33-22-140 filed the complaint and is reimbursed for a hospital-related charge exceeding the amount allowed under subsection (1), the health insurance issuer shall credit or refund the insured the amount of any payment the insured made for the charge minus any applicable copayment, deductible, or other cost-sharing amount owed by the insured.~~

~~(4) (A) If the medicare program has not established a rate for a medical procedure, service, supply, or episode of care by an entity covered under this section, the entity may bill at its standard CHARGEMASTER rate or the rate for which it has contracted with an insurer or patient.~~

~~(B) EACH HOSPITAL SHALL FILE ITS CHARGEMASTER WITH THE DEPARTMENT AT LEAST ANNUALLY TO ALLOW REVIEW IF A COMPLAINT IS FILED PURSUANT TO SUBSECTION (2). IF A HOSPITAL CHANGES ITS CHARGEMASTER BEFORE ITS ANNUAL DATE FOR FILING THE DOCUMENT, THE HOSPITAL MUST FILE THE NEW CHARGEMASTER WITH THE DEPARTMENT AT LEAST 60 DAYS BEFORE IMPLEMENTING THE CHANGED PRICE STRUCTURE.~~

~~(5) This section does not affect or prohibit a reference-based pricing or other contract between an insurer and a hospital.~~

~~(6)~~(4) The department shall adopt rules specifying the procedures:

~~(A) for A HOSPITAL'S SUBMISSION OF ITS CHARGEMASTER; AND~~

~~(B) FOR submitting and responding to complaints filed pursuant to this section~~

(a) for the form and filing of the reports required under subsection (1); and

(b) for monitoring and investigating hospital compliance with the requirements of 45 CFR, part 180.

The rules must be consistent with the procedures used by the centers for medicare and medicaid services to monitor compliance with the regulations.

~~(7) (A) For the purposes of this section, "hospital-related charge" means the price billed for a medical procedure, service, supply, or episode of care by:~~

~~(a)(I) a hospital;~~

~~(b)(II) a critical access hospital; or~~

~~(c)(III) an outpatient center for primary care, outpatient center for surgical services, or other entity providing inpatient or outpatient health care services if the facility is owned in part or in whole by a hospital or critical access hospital.~~

~~(B) THE TERM DOES NOT INCLUDE AN INDIVIDUAL PROVIDER WHOSE~~ ~~SERVICES ARE BILLED THROUGH A HOSPITAL OR CRITICAL ACCESS HOSPITAL BUT~~ WHO ~~IS NOT AN EMPLOYEE OF THE HOSPITAL.~~

(5) The department shall provide the reports required under subsection (1) to the children, families, health, and human services interim committee, in accordance with 5-11-210, no later than July 1 each year.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 5, part 1, and the provisions of Title 50, chapter 5, part 1, apply to [section 1].

~~NEW SECTION. **Section 3. Effective date.** [This act] is effective January 1, 2024.~~

NEW SECTION. **Section 3. Retroactive applicability**. The reporting requirements of [section 1] apply retroactively, within the meaning of 1-2-109, to hospital expenditures incurred in calendar year 2022 and

subsequent years. Reports for calendar year 2022 or hospital fiscal years that ended during 2022 must be filed by July 1, 2024, with the report each hospital files for calendar year 2023 or for a hospital fiscal year that ended during 2023, as applicable.

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