

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1557

H.P. 1073

House of Representatives, May 2, 2017

An Act To Protect Maine Consumers from Unexpected Medical Bills

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GROHMAN of Biddeford.
Cosponsored by Senator WHITEMORE of Somerset and
Representatives: ESPLING of New Gloucester, FOLEY of Wells, GINZLER of Bridgton,
PRESCOTT of Waterboro, SANBORN of Portland, VACHON of Scarborough, Senators:
CARSON of Cumberland, DOW of Lincoln.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §2770** is enacted to read:

3 **§2770. Protections for covered persons**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Covered person" means an individual who is covered as a policyholder,
7 participant or dependent under a plan, policy or contract for health benefits.

8 B. "Facility-based provider" means a provider who provides to a patient in an
9 inpatient or ambulatory care facility health care services that are typically arranged
10 by the facility by contract or agreement with the facility-based provider as part of the
11 facility's general business operations, the specific provider of which within the
12 facility is generally not selected or chosen by the covered person or the covered
13 person's health benefit plan.

14 C. "Nonparticipating facility-based provider" means a provider who provides to a
15 patient in an inpatient or ambulatory care facility health care services and who has
16 not agreed to the terms of a health carrier contract or is not otherwise obligated under
17 the terms of a contract to provide health care services to covered persons with an
18 expectation of receiving payment, other than coinsurance, copayments or deductibles,
19 directly or indirectly from the health carrier.

20 D. "Participating facility" means an institution providing health care services or a
21 health care setting, including but not limited to hospitals and other licensed inpatient
22 centers, ambulatory surgical or treatment centers, skilled nursing facilities, residential
23 treatment centers, urgent care centers, diagnostic, laboratory and imaging centers and
24 rehabilitation and other therapeutic health settings, that has agreed under a contract
25 with a health carrier or with its contractor or subcontractor to provide health care
26 services to covered persons with an expectation of receiving payment, other than
27 coinsurance, copayments or deductibles, directly or indirectly from the health carrier.

28 E. "Participating provider" means a provider who, under a contract with a health
29 carrier or with its contractor or subcontractor, has agreed to provide health care
30 services to covered persons with an expectation of receiving payment, other than
31 coinsurance, copayments or deductibles, directly or indirectly from the health carrier.

32 **2. Hold harmless provision.** A contract between a health carrier and a participating
33 facility must include a hold harmless provision that specifies that, if health care services
34 are provided to a covered person by a nonparticipating facility-based provider at the
35 participating facility, neither the nonparticipating facility-based provider nor the
36 participating facility may bill, charge, collect a deposit from, seek compensation,
37 remuneration or reimbursement from or have any recourse against the covered person for
38 those services as long as the covered person was unaware, or could not reasonably be
39 expected to have been aware, that the services were being provided by a nonparticipating
40 facility-based provider.

1 **3. Agreement to accept and pay charges for services provided by**
2 **nonparticipating facility-based provider.** Nothing in this section precludes a covered
3 person from agreeing to accept and pay the charges for health care services provided by a
4 nonparticipating facility-based provider.

5 **4. Health carrier payments for nonparticipating facility-based provider**
6 **services.** If health care services are provided to a covered person by a nonparticipating
7 facility-based provider at a participating facility and the covered person was unaware or
8 could not reasonably be expected to have been aware that the services were being
9 provided by a nonparticipating facility-based provider, payment to the nonparticipating
10 facility-based provider is governed by this subsection.

11 A. The health carrier may elect to pay to the nonparticipating facility-based provider
12 either:

13 (1) The bills for the health care services that are submitted to it by the
14 nonparticipating facility-based provider; or

15 (2) The higher of the health carrier's contracted rate and 120% of the Medicare
16 payment rate for the same or similar services in the same geographic region.

17 B. If a nonparticipating facility-based provider objects to the payment elected by the
18 health carrier in accordance with paragraph A, the nonparticipating facility-based
19 provider may choose to participate in the provider mediation process set forth in
20 subsection 5.

21 C. Nothing in this subsection precludes a health carrier and a nonparticipating
22 facility-based provider from agreeing to a payment arrangement other than that set
23 forth in this section.

24 **5. Mediation process.** A health carrier shall establish a mediation process for
25 resolving objections raised by nonparticipating facility-based providers in accordance
26 with subsection 4, paragraph B regarding the payment by the health carrier for health care
27 services.

28 A. The mediation process must be established in accordance with recognized
29 mediation standards set by a national association for arbitration, mediation or dispute
30 resolution.

31 B. Following completion of the mediation process, the cost of mediation must be
32 split evenly and paid by the health carrier and the nonparticipating facility-based
33 provider.

34 C. The mediation process may not be used when the health carrier and the
35 nonparticipating facility-based provider agree to a separate payment arrangement or
36 when the covered person agrees to accept and pay the nonparticipating facility-based
37 provider's charges for the services provided by the nonparticipating facility-based
38 provider.

39 D. A health carrier shall maintain records regarding the mediations requested and
40 completed in accordance with this subsection during each calendar year and, upon
41 request, shall submit a report on those mediations to the superintendent in the format
42 specified by the superintendent.

1 **6. Notification requirements.** A health carrier that provides coverage to a covered
2 person shall provide notice to that covered person or that covered person's authorized
3 representative at the time of any precertification for a covered benefit that is to be
4 provided at a facility that is not in the covered person's health benefit plan network that
5 the services requested or provided may not be covered under either the covered person's
6 health plan benefits or under any other provision of this section. The notice must clearly
7 specify that the covered person may be wholly responsible for the entirety of any charges
8 incurred as a result of that treatment or service. The notice must also inform the covered
9 person or the covered person's authorized representative of options available to access
10 covered services from a participating provider.

11 **Sec. 2. 24-A MRSA §2770-A** is enacted to read:

12 **§2770-A. Provider directories**

13 **1. Requirement.** A health carrier shall make available provider directories in
14 accordance with this section.

15 **A.** A health carrier shall post electronically a current and accurate provider directory
16 for each of its network plans with the information and search functions, as described
17 in subsection 3. In making the directory available electronically, the carrier shall
18 ensure that the general public is able to view all of the current providers for a plan
19 through a clearly identifiable link or tab and without creating or accessing an account
20 or entering a policy or contract number.

21 **B.** A health carrier shall update each network plan provider directory at least
22 monthly. The health carrier shall periodically audit at least a reasonable sample size
23 of its provider directories for accuracy and retain documentation of such an audit to
24 be made available to the superintendent upon request.

25 **C.** A health carrier shall provide a print copy, or a print copy of the requested
26 directory information, of a current provider directory with the information described
27 in subsection 2 upon request of a covered person or a prospective covered person.

28 **D.** For each network plan, a health carrier shall include in plain language in both the
29 electronic and print directories the following general information:

30 (1) A description of the criteria the carrier has used to build its provider network;

31 (2) If applicable, a description of the criteria the carrier has used to tier
32 providers;

33 (3) If applicable, how the carrier designates the different provider tiers or levels
34 in the network and identifies for each specific provider, hospital or other type of
35 facility in the network which tier in which each is placed, for example by name,
36 symbols or grouping, in order for a covered person or a prospective covered
37 person to be able to identify the provider tier; and

38 (4) If applicable, that authorization or referral may be required to access some
39 providers.

40 **E.** A health carrier shall make it clear in both its electronic and print directories
41 which provider directory applies to which network plan, such as including the

1 specific name of the network plan as marketed and issued in this State. The health
2 carrier shall include in both its electronic and print directories a customer service
3 e-mail address and telephone number or electronic link that covered persons or the
4 general public may use to notify the health carrier of inaccurate provider directory
5 information.

6 F. For the information required pursuant to subsections 2, 3 and 4 in a provider
7 directory pertaining to a health care professional, a hospital or a facility other than a
8 hospital, a health carrier shall make available through the directory the source of the
9 information and any limitations, if applicable.

10 G. A provider directory, whether in electronic or print format, must accommodate
11 the communication needs of individuals with disabilities and include a link to or
12 information regarding available assistance for persons with limited English
13 proficiency.

14 **2. Information in searchable format.** A health carrier shall make available through
15 an electronic provider directory, for each network plan, the information under this
16 subsection in a searchable format:

17 A. For health care professionals:

18 (1) The health care professional's name;

19 (2) The health care professional's gender;

20 (3) The participating office location or locations;

21 (4) The health care professional's specialty, if applicable;

22 (5) Medical group affiliations, if applicable;

23 (6) Facility affiliations, if applicable;

24 (7) Participating facility affiliations, if applicable;

25 (8) Languages spoken other than English by the health care professional, if
26 applicable; and

27 (9) Whether the health care professional is accepting new patients;

28 B. For hospitals:

29 (1) The hospital's name;

30 (2) The hospital's type;

31 (3) Participating hospital location; and

32 (4) The hospital's accreditation status.

33 This paragraph does not apply to a health carrier that offers network plans that consist
34 solely of limited scope dental plans or limited scope vision plans; and

35 C. For facilities, other than hospitals, by type:

36 (1) The facility's name;

37 (2) The facility's type;

1 (3) Types of services performed; and

2 (4) Participating facility location or locations.

3 This paragraph does not apply to a health carrier that offers network plans that consist
4 solely of limited scope dental plans or limited scope vision plans.

5 **3. Additional information.** In the electronic provider directories, for each network
6 plan, a health carrier shall make available the following information in addition to all of
7 the information available under subsection 2:

8 A. For health care professionals:

9 (1) Contact information. This subparagraph does not apply to a health carrier
10 that offers network plans that consist solely of limited scope dental plans or
11 limited scope vision plans;

12 (2) Board certifications. This subparagraph does not apply to a health carrier
13 that offers network plans that consist solely of limited scope dental plans or
14 limited scope vision plans; and

15 (3) Languages spoken other than English by clinical staff, if applicable;

16 B. For hospitals, the telephone number. This paragraph does not apply to a health
17 carrier that offers network plans that consist solely of limited scope dental plans or
18 limited scope vision plans; and

19 C. For facilities other than hospitals, the telephone number. This paragraph does not
20 apply to a health carrier that offers network plans that consist solely of limited scope
21 dental plans or limited scope vision plans.

22 **4. Information available in printed form.** A health carrier shall make available in
23 print, upon request, the following provider directory information for the applicable
24 network plan:

25 A. For health care professionals:

26 (1) The health care professional's name;

27 (2) The health care professional's contact information;

28 (3) Participating office location or locations;

29 (4) The health care professional's specialty, if applicable;

30 (5) Languages spoken other than English by the health care professional, if
31 applicable; and

32 (6) Whether the health care professional is accepting new patients;

33 B. For hospitals:

34 (1) The hospital's name;

35 (2) The hospital's type; and

36 (3) Participating hospital location and telephone number; and

37 C. For facilities, other than hospitals, by type:

- 1 (1) The facility's name;
- 2 (2) The facility's type;
- 3 (3) Types of services performed; and
- 4 (4) Participating facility location and telephone number.

5 The health carrier shall include a disclosure in the directory that the information included
6 in the directory is accurate as of the date of printing and that covered persons or
7 prospective covered persons should consult the carrier's electronic provider directory on
8 its website to obtain current provider directory information.

9 **5. Rulemaking.** The superintendent shall adopt rules to implement this section.
10 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
11 chapter 375, subchapter 2-A.

12 SUMMARY

13 This bill requires that when health care services are provided to a covered person by a
14 nonparticipating facility-based provider at a participating facility and the covered person
15 was unaware or could not reasonably be expected to have been aware that the services
16 were being provided by a nonparticipating facility-based provider, the covered person
17 may not be billed for those health care services. The bill requires the implementation of
18 associated notification and mediation processes. The bill also requires health carriers to
19 make available provider directories.