

1 HB271  
2 164501-2  
3 By Representative Henry  
4 RFD: Insurance  
5 First Read: 12-MAR-15

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8 SYNOPSIS: Under current law, a health insurer or  
9 vendor may initiate or change the method of payment  
10 to a health care provider to payment through a  
11 credit card, exposing the health care provider to  
12 unknown charges, without the health care provider  
13 having actual prior knowledge of the credit card  
14 payment method, or the language in the contract  
15 that allowed the initiation of or change to a  
16 credit card payment.

17 This bill would establish that any contract  
18 between a health insurer or its contracted vendor  
19 and a health care provider for the provision of  
20 health care services to a plan enrollee shall not  
21 contain restrictions on methods of payment from the  
22 health insurer or vendor to the health care  
23 provider in situations in which the only acceptable  
24 payment method is a credit card payment.

25 This bill would establish that prior to  
26 initiating payments, a health insurer or its

1           contracted vendor must properly notify the health  
2           care provider.

3                       This bill would establish that any clause  
4           contained in a contract in violation of these  
5           provisions shall be void.

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7                                       A BILL  
8                                       TO BE ENTITLED  
9                                       AN ACT

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11                       Relating to health care contracts; to add Section  
12           27-1-17.1 to Title 27, Chapter 1, Code of Alabama 1975, to  
13           provide that any contract issued, amended, or renewed on or  
14           after July 1, 2015, between a health insurer or its contracted  
15           vendor and a health care provider for the provision of health  
16           care services to a plan enrollee shall not restrict payments  
17           to only credit card payments; to provide that prior to  
18           initiating or changing payments to a provider using electronic  
19           funds transfer payments, to only credit card or virtual credit  
20           card payments, a health insurer or its contracted vendor must  
21           meet certain requirements to notify the health care provider  
22           of all fees associated with a particular payment method,  
23           provide clear instructions to health care provider as to how  
24           to opt out of the payment method at any time following the  
25           initial agreement to this payment method, and obtain written  
26           consent from the health care provider; and to provide that any

1 clause in a contract in violation of the provisions of this  
2 section shall be void.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 27-1-17.1 is added to Title 27,  
5 Chapter 1, Code of Alabama 1975, to read as follows:

6 §27-1-17.1.

7 (a) This section shall be known as and may be cited  
8 as the Transparency in Health Insurer Payment Transactions  
9 Act.

10 (b) The Legislature finds and declares the  
11 following:

12 (1) Despite the potential benefits associated with  
13 electronic funds transfer (EFT) payments, many health care  
14 providers are being subjected to fees associated with  
15 electronic payment that essentially reduce their contracted  
16 fee payment amounts.

17 (2) Some health care providers are being subjected  
18 to additional percentage-based fees for Health Insurance  
19 Portability and Accountability Act (HIPPA)-standard automated  
20 clearinghouse (ACH) EFT payments when the only fee that should  
21 be assessed with ACH EFT payments is a nominal banking fee.

22 (3) In recent years, many health insurers have  
23 started paying health care providers through payer-issued  
24 credit cards, often referred to as virtual or online credit  
25 cards, thereby shifting the costs of transferring money  
26 electronically from the health insurer to the health care  
27 provider.

1           (4) Although a valid electronic alternative to paper  
2 checks, the use of credit cards for payment requires health  
3 care providers to manually enter payments into the providers'  
4 own credit card processing systems.

5           (5) Processing through a credit card system often  
6 comes at a significant cost to health care providers, as  
7 payments are subject to interchange and transaction fees,  
8 thereby reducing the agreed upon contractual fee amount for  
9 the provided health care services.

10          (6) Health care providers are often unaware of these  
11 high fees when accepting credit card payments.

12          (7) Health plan credit card payments do not offer  
13 significant risk reduction for health care providers, but  
14 nevertheless carry increased processing charges, unlike  
15 patient credit card payments.

16          (8) Health insurers often receive cash-back  
17 incentives from credit card companies for such transactions.

18          (c) As used in this section, the following terms  
19 shall have the following meanings:

20           (1) CREDIT CARD PAYMENTS. A type of electronic funds  
21 transfer in which the health insurer or its contracted vendor  
22 sends credit card payment information and instructions to the  
23 health care provider, who then processes the payments using  
24 standard credit card technology. Credit card payments can  
25 include virtual or online credit card payments, whereby no  
26 physical credit card is presented to the health care provider

1 and the single-use credit card expires upon payment  
2 processing.

3 (2) HEALTH CARE PROVIDER. For purposes of this  
4 section, the term "health care provider" means: A physician as  
5 defined under Section 34-24-50.1; other licensed health care  
6 professionals as defined in Title 34; a hospital as defined in  
7 Section 22-21-20; and a health care facility, or other  
8 provider who or that is accredited, licensed, or certified and  
9 who or that is performing within the scope of that  
10 accreditation, license, or certification.

11 (3) HEALTH INSURER. An entity or person that offers  
12 or administers a health insurance plan, coverage, or policy in  
13 this state, or contracts with health care providers to furnish  
14 specified health care services to enrollees covered under a  
15 health insurance plan or policy. Health insurer also includes  
16 any entity created under Article 9, Chapter 6, Title 22,  
17 commencing with Section 22-6-150.

18 (4) HEALTH INSURANCE PLAN. Any hospital and medical  
19 expense incurred policy, contract, health maintenance  
20 organization subscriber contract, or any other health care  
21 plan, policy, coverage, or arrangement that pays for or  
22 furnishes medical or health care services, whether by  
23 insurance or otherwise, offered in this state.

24 (5) NOMINAL. A monetary amount equal to or less than  
25 the bank fee associated with HIPPA-standard ACH electronic  
26 funds transfer (EFT).

1 (d) A contract issued, amended, or renewed on or  
2 after July 1, 2015, between a health insurer or its contracted  
3 vendor and a health care provider for the provision of health  
4 care services to a plan enrollee shall not contain  
5 restrictions on methods of payment from the health insurer or  
6 vendor to the health care provider in which the only  
7 acceptable payment method is a credit card payment.

8 (e) Prior to initiating or changing payments to a  
9 provider using electronic funds transfer payments, including  
10 virtual credit card payments, a health insurer or its  
11 contracted vendor must:

12 (1) Notify the provider of all fees associated with  
13 a particular payment method;

14 (2) Provide clear instructions to the provider as to  
15 how to opt out of the payment method at any time following the  
16 initial agreement to this payment method; and

17 (3) Following completion of subdivisions (1) and  
18 (2), obtain written consent from the health care provider for  
19 the payment method.

20 (f) Health care provider consent in accordance with  
21 subdivision (3) of subsection (e) need not be obtained prior  
22 to each subsequent transaction, but is required for each new  
23 type of electronic fund transfer payment initiated with a  
24 health care provider.

25 (g) A health insurer or its contracted vendor shall  
26 not impose any interchange, transaction, or processing fees,  
27 or other charges, on the health care provider beyond a nominal

1 amount for receiving HIPPA-standard ACH electronic funds  
2 transfer (EFT) payments.

3 (e) The provisions of this section cannot be waived  
4 by contract, and any contractual clause in conflict with the  
5 provisions of this section or that purport to waive any  
6 requirements of this section are void.

7 Section 2. If any provision of this act is held by a  
8 court to be invalid, such invalidity shall not affect the  
9 remaining provisions of this act, and to this end the  
10 provisions of this act are declared severable.

11 Section 3. This act shall become effective  
12 immediately following its passage and approval by the  
13 Governor, or its otherwise becoming law.