General Assembly

Committee Bill No. 42

January Session, 2019

LCO No. **5694**

Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING COINSURANCE, COPAYMENTS AND DEDUCTIBLES AND CONTRACTING BY HEALTH CARRIERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2020*) (a) Notwithstanding any
2 provision of the general statutes and to the maximum extent permitted
3 by federal law, no individual or group health insurance policy
4 delivered, issued for delivery, renewed, amended or continued in this
5 state on or after January 1, 2020, providing coverage of the type
6 specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of
7 the general statutes shall impose:

8 (1) A coinsurance or deductible for a covered benefit in an amount
9 that exceeds the lesser of:

10 (A) An amount calculated on the basis of the amount due and
11 payable for the covered benefit by the insurer, health care center,
12 fraternal benefit society, hospital service corporation, medical service
13 corporation or other entity that delivered, issued for delivery,
14 renewed, amended or continued such policy;

15 (B) An amount calculated on the basis of the amount charged for the
16 covered benefit by the provider or vendor, less any discount for such
17 covered benefit and any amount due to, or charged by, an entity if
18 such entity is affiliated with, or owned or controlled by, the insurer,
19 health care center, fraternal benefit society, hospital service
20 corporation, medical service corporation or other entity that delivered,
21 issued for delivery, renewed, amended or continued such policy; or

22 (C) The amount that the insured would have paid for the covered
23 benefit without regard to such policy; or

24 (2) A copayment in an amount that the insured would have paid for
25 the covered benefit without regard to such policy.

26 (b) Any violation of this section shall constitute an unfair trade
27 practice in violation of chapter 735a of the general statutes.

28 Sec. 2. (NEW) (*Effective January 1, 2020*) Notwithstanding any
29 provision of the general statutes, and to the maximum extent
30 permitted by applicable law, no contract entered into or amended by a
31 health carrier, as defined in section 38a-591a of the general statutes, on
32 or after January 1, 2020, shall permit or require any party to such
33 contract to violate the fiduciary duties that the health carrier owes to
34 its insureds.

35 Sec. 3. Section 20-7f of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective January 1, 2020*):

37 (a) For purposes of this section:

38 (1) "Request payment" includes, but is not limited to, submitting a
39 bill for services not actually owed or submitting for such services an
40 invoice or other communication detailing the cost of the services that is
41 not clearly marked with the phrase "This is not a bill".

42 (2) "Health care provider" means a person licensed to provide health
43 care services under chapters 370 to 373, inclusive, chapters 375 to 383b,

44 inclusive, chapters 384a to 384c, inclusive, or chapter 400j.

45 (3) "Enrollee" means a person who has contracted for or who
46 participates in a health care plan for such enrollee or such enrollee's
47 eligible dependents.

48 (4) **[**"Coinsurance, copayment, deductible or other out-of-pocket
49 expense"**]** "Coinsurance, copayment or deductible" means the portion
50 of a charge for services covered by a health care plan that, under the
51 plan's terms, it is the obligation of the enrollee to pay.

52 (5) "Health care plan" has the same meaning as provided in
53 subsection (a) of section 38a-477aa.

54 (6) "Health carrier" has the same meaning as provided in subsection
55 (a) of section 38a-477aa.

56 (7) "Emergency services" has the same meaning as provided in
57 subsection (a) of section 38a-477aa.

58 (b) It shall be an unfair trade practice in violation of chapter 735a for
59 any health care provider to request payment from an enrollee: **[**, other**]**

60 (1) Other than a coinsurance, copayment **[**,**]** or deductible, **[**or other
61 out-of-pocket expense,**]** for **[**(1)**]** (A) health care services or a facility
62 fee, as defined in section 19a-508c, covered under a health care plan,
63 **[**(2)**]** (B) emergency services covered under a health care plan and
64 rendered by an out-of-network health care provider, or **[**(3)**]** (C) a
65 surprise bill, as defined in section 38a-477aa; **[**.**]** or

66 (2) For a coinsurance, copayment or deductible in an amount that
67 exceeds the amount calculated pursuant to section 1 of this act.

68 (c) It shall be an unfair trade practice in violation of chapter 735a for
69 any health care provider to report to a credit reporting agency an
70 enrollee's failure to pay a bill for the services, facility fee or surprise bill
71 as set forth in subdivision (1) of subsection (b) of this section, when a

72 health carrier has primary responsibility for payment of such services,
73 fees or bills.

74 Sec. 4. Subdivision (3) of subsection (c) of section 38a-193 of the
75 general statutes is repealed and the following is substituted in lieu
76 thereof (*Effective January 1, 2020*):

77 (3) No participating provider, or agent, trustee or assignee thereof,
78 may: (A) Maintain any action at law against a subscriber or enrollee to
79 collect sums owed by the health care center; (B) request payment from
80 a subscriber or enrollee for such sums; (C) request payment from a
81 subscriber or enrollee for covered emergency services that are
82 provided by an out-of-network provider; or (D) request payment from
83 a subscriber or enrollee for a surprise bill, as defined in section 38a-
84 477aa, as amended by this act. For purposes of this subdivision
85 "request payment" includes, but is not limited to, submitting a bill for
86 services not actually owed or submitting for such services an invoice
87 or other communication detailing the cost of the services that is not
88 clearly marked with the phrase "THIS IS NOT A BILL". The contract
89 between a health care center and a participating provider shall inform
90 the participating provider that pursuant to section 20-7f, as amended
91 by this act, it is an unfair trade practice in violation of chapter 735a for
92 any health care provider to request payment from a subscriber or an
93 enrollee, other than a coinsurance, copayment **[**,**]** or deductible, **[**or
94 other out-of-pocket expense,**]** for covered medical or emergency
95 services or facility fees, as defined in section 19a-508c, or surprise bills,
96 or to report to a credit reporting agency an enrollee's failure to pay a
97 bill for such services when a health care center has primary
98 responsibility for payment of such services, fees or bills.

99 Sec. 5. Section 38a-478j of the general statutes is repealed and the
100 following is substituted in lieu thereof (*Effective January 1, 2020*):

101 Each managed care plan that requires a deductible or percentage
102 coinsurance payment by the insured shall calculate the insured's
103 deductible or coinsurance payment on the lesser of the provider's or

104 vendor's charges for the goods or services or the amount payable by
105 the managed care organization or a subcontractor of such managed
106 care organization for such goods or services, except as otherwise
107 required by the laws of a foreign state when applicable to providers,
108 vendors or patients in such foreign state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2020*	New section
Sec. 2	*January 1, 2020*	New section
Sec. 3	*January 1, 2020*	20-7f
Sec. 4	*January 1, 2020*	38a-193(c)(3)
Sec. 5	*January 1, 2020*	38a-478j

Statement of Purpose:

To: (1) Modify the manner in which coinsurance, copayment and deductible payments are calculated, and provide that any failure to calculate such payments in the specified manner shall constitute an unfair trade practice in violation of the Connecticut Unfair Trade Practices Act; (2) prohibit health carriers from entering into or amending contracts that, by their terms, would require them to violate the fiduciary duties that they owe to their insureds; and (3) modify the manner in which managed care plans calculate deductible and coinsurance payments.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.

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