

SENATE BILL No. 122

By Committee on Public Health and Welfare

1-30

1 AN ACT concerning fees charged for services provided at hospital-based
2 facilities.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) As used in this section and section 2, and amendments
6 thereto:

7 (1) "Affiliated provider" means a provider that is:

8 (A) Employed by a hospital or health system;

9 (B) under a professional services agreement with a hospital or health
10 system that permits such hospital or health system to bill on behalf of such
11 provider; or

12 (C) a clinical faculty member of the medical school of the university
13 of Kansas, who is affiliated with a hospital or health system in a manner
14 that permits such hospital or health system to bill on behalf of such clinical
15 faculty member;

16 (2) "Campus" means:

17 (A) The physical area immediately adjacent to a hospital's main
18 buildings and other areas and structures that are not strictly contiguous to
19 the main buildings but are located within two hundred fifty yards of the
20 main buildings; or

21 (B) any other area that has been determined on an individual case
22 basis by the centers for medicare and medicaid services to be part of a
23 hospital's campus;

24 (3) "Facility fee" means any fee charged or billed by a hospital or
25 health system for outpatient hospital services provided in a hospital-based
26 facility that is:

27 (A) Intended to compensate the hospital or health system for the
28 operational expenses of the hospital or health system; and

29 (B) separate and distinct from a professional fee;

30 (4) "Health system" means:

31 (A) A parent corporation of one or more hospitals and any entity
32 affiliated with such parent corporation through ownership, governance,
33 membership or other means; or

34 (B) a hospital and any entity affiliated with such hospital through
35 ownership, governance, membership or other means;

36 (5) "Hospital" has the same meaning as provided in K.S.A. 65-425,

1 and amendments thereto;

2 (6) "Hospital-based facility" means a facility that is owned or
3 operated, in whole or in part, by a hospital or health system where hospital
4 or professional medical services are provided;

5 (7) "Professional fee" means any fee charged or billed by a provider
6 for professional medical services provided in a hospital-based facility; and

7 (8) "Provider" means an individual, entity, corporation or health care
8 provider, whether for profit or nonprofit, whose primary purpose is to
9 provide professional medical services or diagnostic testing.

10 Sec. 2. (a) If a hospital or health system charges a facility fee utilizing
11 a current procedural terminology evaluation and management (CPT E/M)
12 code for outpatient services or diagnostic testing provided at a hospital-
13 based facility where a professional fee is also expected to be charged, the
14 hospital or health system shall provide the patient with a written notice
15 that includes the following information:

16 (1) That the hospital-based facility is part of a hospital or health
17 system and that the hospital or health system charges a facility fee that is
18 in addition to and separate from the professional fee charged by the
19 provider;

20 (2) (A) The amount of the patient's potential financial liability,
21 including any facility fee likely to be charged, and, where professional
22 medical services or diagnostic testing are provided by an affiliated
23 provider, any professional fee likely to be charged, or, if the exact type and
24 extent of the professional medical services needed are not known or the
25 terms of a patient's health insurance coverage are not known with
26 reasonable certainty, an estimate of the patient's financial liability based on
27 typical or average charges for visits to the hospital-based facility, including
28 the facility fee;

29 (B) a statement that the patient's actual financial liability will depend
30 on the professional medical services actually provided to the patient; and

31 (C) an explanation that the patient may incur financial liability that is
32 greater than the patient would incur if the professional medical services or
33 diagnostic testing were not provided by a hospital-based facility; and

34 (3) that a patient covered by a health insurance policy should contact
35 the health insurer for additional information regarding the hospital's or
36 health system's charges and fees, including the patient's potential financial
37 liability, if any, for such charges and fees.

38 (b) If a hospital or health system charges a facility fee without
39 utilizing a current procedural terminology evaluation and management
40 (CPT E/M) code for outpatient services provided at a hospital-based
41 facility located outside the hospital campus, the hospital or health system
42 shall provide the patient with a written notice that includes the following
43 information:

1 (1) That the hospital-based facility is part of a hospital or health
2 system and that the hospital or health system charges a facility fee that
3 may be in addition to and separate from the professional fee charged by a
4 provider;

5 (2) (A) A statement that the patient's actual financial liability will
6 depend on the professional medical services actually provided to the
7 patient; and

8 (B) an explanation that the patient may incur financial liability that is
9 greater than the patient would incur if the hospital-based facility was not
10 hospital-based; and

11 (3) that a patient covered by a health insurance policy should contact
12 the health insurer for additional information regarding the hospital's or
13 health system's charges and fees, including the patient's potential financial
14 liability, if any, for such charges and fees.

15 (c) The written notice described in subsections (a) and (b) shall be in
16 plain language and in a form that may be reasonably understood by a
17 patient who does not possess special knowledge regarding hospital or
18 health system facility fee charges.

19 (d) (1) For non-emergency care, if a patient's appointment is
20 scheduled to occur 10 or more days after the appointment is made, such
21 written notice shall be sent to the patient by first class mail, encrypted
22 electronic mail or a secure patient internet portal not less than three days
23 after the appointment is made. If an appointment is scheduled to occur less
24 than 10 days after the appointment is made or if the patient arrives without
25 an appointment, such notice shall be hand-delivered to the patient when
26 the patient arrives at the hospital-based facility.

27 (2) For emergency care, such written notice shall be provided to the
28 patient as soon as practicable after the patient is stabilized in accordance
29 with the federal emergency medical treatment and active labor act, 42
30 U.S.C. § 1395dd, or is determined not to have an emergency medical
31 condition and before the patient leaves the hospital-based facility. If the
32 patient is unconscious, under great duress or for any other reason unable to
33 read the notice and understand and act on such patient's rights, the notice
34 shall be provided to such patient's representative as soon as practicable.

35 (e) Subsections (a) through (d) shall not apply if a patient is insured
36 by medicare or medicaid or is receiving services under a workers
37 compensation plan established to provide medical services pursuant to
38 article 5 of chapter 44 of the Kansas Statutes Annotated, and amendments
39 thereto.

40 (f) A hospital-based facility shall prominently display written notice
41 in locations that are readily accessible to and visible by patients, including
42 patient waiting areas, stating that:

43 (1) The hospital-based facility is part of a hospital or health system;

1 and

2 (2) if the hospital-based facility charges a facility fee, the patient may
3 incur a financial liability greater than the patient would incur if the
4 hospital-based facility was not hospital-based.

5 (g) A hospital-based facility shall clearly hold itself out to the public
6 and payers as being hospital-based, including, at a minimum, by stating
7 the name of the hospital or health system in its signage, marketing
8 materials, internet web sites and stationery.

9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.