

## SENATE BILL No. 251

By Senator Denning

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1 AN ACT concerning health care predetermination requests relating to  
2 health insurance benefits coverage.

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4 WHEREAS, The legislature hereby finds and declares that:

5 (1) Health plans have the ability today to provide a real-time  
6 explanation of benefits (EOB), enabling patients and their physicians to  
7 learn how a claim for services will be adjudicated at the point of care,  
8 including information on if the service is covered, the amount to be paid to  
9 the physician and the patient's financial responsibility for copayments,  
10 coinsurance and any remaining deductible obligation;

11 (2) real-time EOBs have the potential to significantly reduce health  
12 care costs by making the true cost of health care services transparent to  
13 patients and their physicians at the time treatment decisions are being  
14 made and by reducing the costs of collections which accrue when paper  
15 EOBs are not received until weeks or months after the services are  
16 provided; and

17 (3) real-time EOBs also have the potential to eliminate the financial  
18 uncertainty that currently plagues the health care system and would  
19 remove another layer of complexity and anxiety for patients at a time  
20 when they should be focused on their health. This is particularly important  
21 for patients for whom this financial exposure may be large, such as for the  
22 increasing number of patients with high-deductible health plans, or for  
23 those patients who purchase coverage on a health insurance exchange, for  
24 whom relatively modest changes to patient income can affect eligibility  
25 and enrollment status as they transition between medicaid, subsidized and  
26 unsubsidized qualified health plans; and

27 WHEREAS, The people of the state of Kansas would all benefit if  
28 health plans were required to provide real-time EOBs on request when a  
29 physician submits an electronic claim predetermination request:

30 Now, therefore,

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

33 Section 1. (a) This section shall be known as and may be cited as the  
34 real-time explanation of health care benefits act.

35 (b) Health plans that receive an electronic health care  
36 predetermination request consistent with the requirements set forth in

1 subsection (c) shall provide to the patient and the physician information on  
2 the amounts of expected benefits coverage on the procedures specified in  
3 the request that is accurate at the time of the health plan's response. In  
4 addition, the information provided in a real-time response is binding on the  
5 health plan, unless the patient successfully appeals a denial or other  
6 adverse determination, or the health plan proves that the physician or  
7 patient committed fraud. This section shall not prohibit a health plan from  
8 seeking indemnification or contribution from an employer or other health  
9 plan sponsor if the patient is retroactively disenrolled.

10 (c) The amounts for the referenced services in subsection (b) shall  
11 include:

12 (1) The amount the patient will be expected to pay, clearly identifying  
13 any deductible amount, coinsurance and copayment;

14 (2) the amount the physician will be paid;

15 (3) whether any service will be denied;

16 (4) whether any payments will be reduced, but not to \$0, or increased  
17 from the agreed fee schedule amounts, and if so, the health care policy that  
18 identifies why the payments will be reduced or increased; and

19 (5) whether any of the referenced services are bundled with other  
20 services, and if so, the health care policy that identifies why the referenced  
21 services are bundled with other services.

22 (e) This electronic request and response transaction shall be known as  
23 the health care predetermination request and response. The health care  
24 predetermination request and response shall be conducted in accordance  
25 with the transactions and code sets standards promulgated pursuant to the  
26 health insurance portability and accountability act of 1996 (HIPAA) public  
27 law 104-191, and 45 code of federal regulations, parts 160 and 162 or later  
28 versions, specifically, the ASC X12 837 health care predetermination:  
29 Professional transaction and any of its successors, without regard to  
30 whether this transaction is mandated by HIPAA. It shall also comply with  
31 any operating rules that may be adopted with respect to this transaction or  
32 any of its successors, without regard to whether these operating rules are  
33 mandated by HIPAA.

34 (f) The health plan's response to the health care predetermination  
35 request shall be returned using the same transmission method as that of the  
36 submission. This includes a real-time response for a real-time request.

37 (g) For purposes of this section: (1) "Health plan" shall have the same  
38 meaning as that term is defined in 45 C.F.R. § 160.103; and (2)  
39 "physician" means a person licensed to practice medicine and surgery.

40 (h) The commissioner of insurance shall adopt rules and regulations  
41 necessary to carry out the provisions of this section.

42 Sec. 2. This act shall take effect and be in force from and after  
43 January 1, 2015, and its publication in the statute book.