

Regular Session, 2013

HOUSE BILL NO. 342

BY REPRESENTATIVE HUVAL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/HEALTH-ACCID: Provides relative to balance billing by and reimbursement of noncontracted health care providers of emergency medical services

1 AN ACT

2 To enact R.S. 22:1882 and to repeal R.S. 22:1826, relative to noncontracted health care  
3 providers of emergency medical services; to provide for definitions; to provide with  
4 respect to reimbursement of such providers by health insurance issuers; to provide  
5 relative to balance billing by such providers; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1882 is hereby enacted to read as follows:

8 §1882. Payment of claims for emergency services provided by noncontracted health  
9 care providers; balance billing

10 A. For purposes of this Section:

11 (1) "Emergency medical condition" means a medical condition of recent  
12 onset and severity, including severe pain, that would lead a prudent layperson, acting  
13 reasonably and possessing an average knowledge of health and medicine, to believe  
14 that the absence of immediate medical attention could reasonably be expected to  
15 result in:

16 (a) Placing the health of the individual, or with respect to a pregnant woman  
17 the health of the woman or her unborn child, in serious jeopardy.

18 (b) Serious impairment to bodily function.

19 (c) Serious dysfunction of any bodily organ or part.

1           (2) "Emergency medical services" means those medical services necessary  
2           to screen, evaluate, and stabilize an emergency medical condition.

3           B.(1) A health insurance issuer shall directly reimburse a health care provider  
4           that does not contract with that health insurance issuer and who renders emergency  
5           medical services to a patient, enrollee, or insured, in an amount not less than the  
6           greatest of the following:

7           (a)(i) The amount negotiated with contracted health care providers for  
8           emergency medical services that are imposed with respect to the patient, enrollee or  
9           insured, excluding any applicable in-network coinsurance, in-network copayments,  
10           deductibles, or noncovered services.

11           (ii) If there is more than one amount negotiated with contracted providers for  
12           emergency services, the amount shall be the median of those amounts.

13           (iii) If a health insurance issuer has more than one negotiated amount for  
14           contracted health care providers for a particular emergency medical service, the  
15           amount shall be the median of those negotiated amounts. In determining such  
16           median, the amount negotiated with each in-network provider shall be treated as a  
17           separate amount regardless if the same amount is paid to more than one provider.

18           (iv) For capitated or other health insurance issuers that do not have a  
19           negotiated per-service amount for contracted health care providers, this  
20           Subparagraph shall not apply.

21           (b) The amount calculated for the emergency medical services using the same  
22           method that the health insurance issuer generally uses to determine payments for  
23           out-of-network health care services, excluding any applicable in-network  
24           coinsurance, in-network copayments, deductibles, or noncovered services. The  
25           amount specified in this Paragraph shall be determined without regard for  
26           out-of-network cost sharing that generally applies under the policy or subscriber  
27           agreement with respect to out-of-network services.

1           (c) The amount that would be paid under Medicare for the emergency  
2           medical services, excluding any applicable in-network coinsurance, in-network  
3           copayments, deductibles, or noncovered services.

4           (2) Payment of such claim by a health insurance issuer shall in no  
5           circumstance be made directly to a patient, enrollee, or insured.

6           C.(1) A health insurance issuer shall be liable for reimbursement to the  
7           noncontracted health care provider for emergency medical services, except for any  
8           applicable in-network coinsurance, in-network copayments, deductibles, or  
9           noncovered services.

10           (2) A patient, enrollee, or insured shall be indemnified and held harmless by  
11           a health insurance issuer for emergency medical services, except for any applicable  
12           in-network coinsurance, in-network copayments, deductibles, or noncovered  
13           services.

14           (3) A noncontracted health care provider shall be prohibited from billing a  
15           patient, enrollee, or insured for reimbursement for emergency medical services,  
16           except for any applicable in-network coinsurance, in-network copayments,  
17           deductibles, or noncovered services.

18           Section 2. R.S. 22:1826 is hereby repealed in its entirety.

19           Section 3. This Act shall become effective upon signature by the governor or, if not  
20 signed by the governor, upon expiration of the time for bills to become law without signature  
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
23 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Huval

HB No. 342

**Abstract:** Provides relative to balance billing by noncontracted health care providers of emergency medical services by providing with respect to reimbursement of such providers by health insurance issuers.

- (1) Present law authorizes a health care provider that does not contract with a health insurance issuer to file a claim with a health insurance issuer for emergency services rendered. Requires the health insurance issuer to directly pay such a claim by a noncontracted provider in the amount as determined pursuant to the plan or policy provisions between the enrollee or insured and the health insurance issuer for such emergency services, less any amount representing coinsurance, copayments, deductibles, noncovered services, or any other amounts identified by the health insurance issuer pursuant to the plan or policy as an amount for which the insured or enrollee is liable.

Proposed law requires a health insurance issuer to directly reimburse a health care provider that does not contract with that health insurance issuer and who renders emergency medical services to a patient, enrollee, or insured, in an amount not less than the greatest of the following:

- (a) The amount negotiated with contracted health care providers for emergency medical services that are imposed with respect to the patient, enrollee or insured, excluding any applicable in-network coinsurance, in-network copayments, deductibles, or noncovered services. Further provides that if there is more than one amount negotiated with contracted providers for emergency services, the amount shall be the median of those amounts. Additionally provides that if a health insurance issuer has more than one negotiated amount for contracted health care providers for a particular emergency medical service, the amount shall be the median of those negotiated amounts. Provides that in determining such median, the amount negotiated with each in-network provider shall be treated as a separate amount regardless if the same amount is paid to more than one provider. Also specifies that for capitated or other health insurance issuers that do not have a negotiated per-service amount for contracted health care providers, these provisions shall not apply.
- (b) The amount calculated for the emergency medical services using the same method that the health insurance issuer generally uses to determine payments for out-of-network health care services, excluding any applicable in-network coinsurance, in-network copayments, deductibles, or noncovered services. Specifies that this amount shall be determined without regard for out-of-network cost sharing that generally applies under the policy or subscriber agreement with respect to out-of-network services.
- (c) The amount that would be paid under Medicare for the emergency medical services, excluding any applicable in-network coinsurance, in-network copayments, deductibles, or noncovered services.
- (2) Present law specifies that payment of such a claim by a health insurance issuer shall in no circumstances be made directly to the patient, insured, or enrollee.

Proposed law retains present law.

- (3) Present law defines a "health insurance issuer" as any entity that offers health insurance coverage through a policy or certificate of insurance subject to state law that regulates the business of insurance. Specifies that the term shall also include health maintenance organizations, certain nonfederal government plans, and the office of group benefits.

Proposed law retains present law.

Proposed law additionally includes a definition of "emergency medical services" as those medical services necessary to screen, evaluate, and stabilize an emergency medical condition, as defined by proposed law.

- (4) Proposed law provides that a health insurance issuer shall be liable for reimbursement to the noncontracted health care provider for emergency medical services, except for any applicable in-network coinsurance, in-network copayments, deductibles, or noncovered services. Further provides that a patient, enrollee, or insured shall be indemnified and held harmless by a health insurance issuer for payment of a claim for emergency medical services, except for such amounts. Prohibits a noncontracted health care provider from billing a patient, enrollee, or insured for reimbursement for emergency medical services, except for such amounts.
- (5) Present law exempts limited benefit health insurance policies or contracts from its provisions.

Proposed law deletes present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1882; Repeals R.S. 22:1826)