

SENATE BILL NO. 289—SENATOR HARDY

MARCH 16, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Requires certain policies of health insurance to cover services provided by an out-of-network physician. (BDR 57-675)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 12)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health insurance; requiring insurers who issue certain policies of health insurance which provide coverage using a network plan to provide for the reimbursement of services provided by an out-of-network physician; requiring a physician who receives such a reimbursement to accept the reimbursement as payment in full; requiring such a policy of health insurance to include provisions relating to recovery of a copayment, deductible or coinsurance from an insured for such a reimbursement; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes certain requirements upon insurers or other  
2 organizations who provide health coverage. (NRS 687B.402-687B.500) **Section 1**  
3 of this bill requires an insurer who offers for sale certain policies of health  
4 insurance that provide coverage through a network plan to provide for the  
5 reimbursement of services provided by an out-of-network physician to a person  
6 covered by the policy at a certain amount. **Section 1** defines a network plan as a  
7 policy of insurance offered or issued by an insurer under which the financing and  
8 delivery of health care services are provided, in whole or in part, through a defined  
9 set of physicians under contract with the insurer. The policies of health insurance to  
10 which **section 1** applies are policies issued to individuals and groups, plans offered  
11 through small employers, plans offered by health maintenance organizations and  
12 managed care organizations and coverage provided to state and local governmental  
13 employees. **Sections 2, 4, 5, 7, 10, 12 and 13** of this bill require such policies of  
14 health insurance to include: (1) a notice that the provisions of **section 1** apply to



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15 health care services received from an out-of-network physician; and (2) a procedure  
16 for the recovery of a copayment, deductible or coinsurance for a reimbursement  
17 paid to an out-of-network physician. **Sections 3, 6, 8 and 9** of this bill make  
18 conforming changes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** Chapter 687B of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     1. *If an insurer offers for sale in this State a policy of health*  
4 *insurance that provides coverage through a network plan, the*  
5 *insurer shall provide for the reimbursement of services provided*  
6 *by an out-of-network physician to a person covered by the policy*  
7 *of health insurance upon submission of a claim by the physician.*  
8 *The insurer shall provide reimbursement to the physician within*  
9 *30 days after receipt of a claim in an amount equal to the lesser*  
10 *of:*

11     (a) *The amount billed by the physician in the claim submitted*  
12 *by the physician; or*

13     (b) *The 80th percentile for the particular service in the*  
14 *geographic area where the service was provided, as reported in the*  
15 *database selected by the Commissioner pursuant to subsection 4.*

16     2. *A physician who receives reimbursement pursuant to*  
17 *subsection 1 shall accept the reimbursement as payment in full for*  
18 *the services provided.*

19     3. *A physician or a person covered by a policy of health*  
20 *insurance that offers coverage through a network plan may*  
21 *submit a complaint to the Commissioner on a form prescribed by*  
22 *the Commissioner for any violation of this section.*

23     4. *The Commissioner shall, by regulation, adopt a database*  
24 *containing benchmarks for charges for services provided by a*  
25 *physician. The database selected pursuant to this subsection must:*

26     (a) *Distinguish between services provided on the basis of the*  
27 *facility in which the services were provided and the geographic*  
28 *area in which the services are provided; and*

29     (b) *Be maintained by an organization which is not for profit*  
30 *and is independent of any insurer or physician.*

31     5. *As used in this section:*

32     (a) *“Health care service” means a service for the diagnosis,*  
33 *prevention, treatment, care or relief of a health condition, illness,*  
34 *injury or disease.*

35     (b) *“Insurer” includes, without limitation, a governmental*  
36 *entity which offers, administers or otherwise provides a policy of*  
37 *health insurance.*



1 (c) "Medicaid" has the meaning ascribed to it in  
2 NRS 439B.120.

3 (d) "Network" means a defined set of physicians who are  
4 under contract with an insurer to provide health care services  
5 pursuant to a policy of health insurance offered or issued by the  
6 insurer.

7 (e) "Network plan" means a policy of insurance offered or  
8 issued by an insurer under which the financing and delivery of  
9 health care services, including, without limitation, items and  
10 services paid for as health care services, are provided, in whole or  
11 in part, through a network. The term does not include an  
12 arrangement for the financing of premiums.

13 (f) "Out-of-network" means a physician who is not under  
14 contract with an insurer to provide health care services pursuant  
15 to a policy of health insurance offered or issued by the insurer.

16 (g) "Physician" means a physician licensed pursuant to  
17 chapter 630 of NRS or an osteopathic physician licensed pursuant  
18 to chapter 633 of NRS.

19 (h) "Policy of health insurance" means a policy, contract,  
20 certificate, plan or agreement issued pursuant to or governed by  
21 chapter 287, 689A, 689B, 689C, 695C or 695G of NRS for the  
22 provision of, delivery of, arrangement for, payment for or  
23 reimbursement for any of the costs of a health care service. The  
24 term includes, without limitation, a program or plan offered by or  
25 through a governmental entity for the provision of, delivery of,  
26 arrangement for, payment for or reimbursement for any of the  
27 costs of a health care service. The term does not include health  
28 care services provided under the State Plan for Medicaid or  
29 insurance pursuant to the Children's Health Insurance Program  
30 pursuant to a contract with the Division of Health Care Financing  
31 and Policy of the Department of Health and Human Services.

32 **Sec. 2.** Chapter 689A of NRS is hereby amended by adding  
33 thereto a new section to read as follows:

34 1. An insurer who offers or issues a policy of health  
35 insurance which provides coverage through a network plan shall  
36 include in the policy of health insurance:

37 (a) A notice that the provisions of section 1 of this act apply to  
38 health care services received from an out-of-network physician  
39 while covered by the policy of health insurance; and

40 (b) A procedure for the recovery of a copayment, deductible or  
41 coinsurance from a person covered by the policy of health  
42 insurance for any reimbursement paid pursuant to section 1 of  
43 this act.

44 2. As used in this section:



1 (a) "Health care service" has the meaning ascribed to it in  
2 section 1 of this act.

3 (b) "Network plan" has the meaning ascribed to it in section 1  
4 of this act.

5 (c) "Out-of-network" has the meaning ascribed to it in section  
6 1 of this act.

7 (d) "Physician" has the meaning ascribed to it in section 1 of  
8 this act.

9 **Sec. 3.** NRS 689A.330 is hereby amended to read as follows:

10 689A.330 If any policy is issued by a domestic insurer for  
11 delivery to a person residing in another state, and if the insurance  
12 commissioner or corresponding public officer of that other state has  
13 informed the Commissioner that the policy is not subject to approval  
14 or disapproval by that officer, the Commissioner may by ruling  
15 require that the policy meet the standards set forth in NRS 689A.030  
16 to 689A.320, inclusive **H**, and section 2 of this act.

17 **Sec. 4.** Chapter 689B of NRS is hereby amended by adding  
18 thereto a new section to read as follows:

19 **1. An insurer who offers or issues a policy of group health  
20 insurance which provides coverage through a network plan shall  
21 include in the policy of group health insurance:**

22 (a) A notice that the provisions of section 1 of this act apply to  
23 health care services received from an out-of-network physician  
24 while covered by the policy of group health insurance; and

25 (b) A procedure for the recovery of a copayment, deductible or  
26 coinsurance from a person covered by the policy of group health  
27 insurance for any reimbursement paid pursuant to section 1 of  
28 this act.

29 **2. As used in this section:**

30 (a) "Health care service" has the meaning ascribed to it in  
31 section 1 of this act.

32 (b) "Network plan" has the meaning ascribed to it in section 1  
33 of this act.

34 (c) "Out-of-network" has the meaning ascribed to it in section  
35 1 of this act.

36 (d) "Physician" has the meaning ascribed to it in section 1 of  
37 this act.

38 **Sec. 5.** Chapter 689C of NRS is hereby amended by adding  
39 thereto a new section to read as follows:

40 **1. A carrier who offers or issues a health benefit plan which  
41 provides coverage through a network plan shall include in the  
42 health benefit plan:**

43 (a) A notice that the provisions of section 1 of this act apply to  
44 health care services received from an out-of-network physician  
45 while covered by the health benefit plan; and



1       ***(b) A procedure for the recovery of a copayment, deductible or***  
2 ***coinsurance from a person covered by the health benefit plan for***  
3 ***any reimbursement paid pursuant to section 1 of this act.***

4       ***2. As used in this section:***

5       ***(a) "Health care service" has the meaning ascribed to it in***  
6 ***section 1 of this act.***

7       ***(b) "Network plan" has the meaning ascribed to it in section 1***  
8 ***of this act.***

9       ***(c) "Out-of-network" has the meaning ascribed to it in section***  
10 ***1 of this act.***

11       ***(d) "Physician" has the meaning ascribed to it in section 1 of***  
12 ***this act.***

13       **Sec. 6.** NRS 689C.425 is hereby amended to read as follows:

14       689C.425 A voluntary purchasing group and any contract  
15 issued to such a group pursuant to NRS 689C.360 to 689C.600,  
16 inclusive, are subject to the provisions of NRS 689C.015 to  
17 689C.355, inclusive, ***and section 5 of this act*** to the extent  
18 applicable and not in conflict with the express provisions of NRS  
19 687B.408 and 689C.360 to 689C.600, inclusive.

20       **Sec. 7.** Chapter 695C of NRS is hereby amended by adding  
21 thereto a new section to read as follows:

22       ***1. A health maintenance organization which offers or issues***  
23 ***a health care plan which provides coverage through a network***  
24 ***plan shall include in the health care plan:***

25       ***(a) A notice that the provisions of section 1 of this act apply to***  
26 ***health care services received from an out-of-network physician***  
27 ***while covered by the health care plan; and***

28       ***(b) A procedure for the recovery of a copayment, deductible or***  
29 ***coinsurance from a person covered by the health care plan for any***  
30 ***reimbursement paid pursuant to section 1 of this act.***

31       ***2. As used in this section:***

32       ***(a) "Health care service" has the meaning ascribed to it in***  
33 ***section 1 of this act.***

34       ***(b) "Network plan" has the meaning ascribed to it in section 1***  
35 ***of this act.***

36       ***(c) "Out-of-network" has the meaning ascribed to it in section***  
37 ***1 of this act.***

38       ***(d) "Physician" has the meaning ascribed to it in section 1 of***  
39 ***this act.***

40       **Sec. 8.** NRS 695C.050 is hereby amended to read as follows:

41       695C.050 1. Except as otherwise provided in this chapter or  
42 in specific provisions of this title, the provisions of this title are not  
43 applicable to any health maintenance organization granted a  
44 certificate of authority under this chapter. This provision does not  
45 apply to an insurer licensed and regulated pursuant to this title



1 except with respect to its activities as a health maintenance  
2 organization authorized and regulated pursuant to this chapter.

3 2. Solicitation of enrollees by a health maintenance  
4 organization granted a certificate of authority, or its representatives,  
5 must not be construed to violate any provision of law relating to  
6 solicitation or advertising by practitioners of a healing art.

7 3. Any health maintenance organization authorized under this  
8 chapter shall not be deemed to be practicing medicine and is exempt  
9 from the provisions of chapter 630 of NRS.

10 4. The provisions of NRS 695C.110, 695C.125, 695C.1691,  
11 695C.1693, 695C.170, 695C.1703, 695C.1705, 695C.1709 to  
12 695C.173, inclusive, 695C.1733, 695C.17335, 695C.1734,  
13 695C.1735 to 695C.1755, inclusive, 695C.176 to 695C.200,  
14 inclusive, *and section 7 of this act* and 695C.265 do not apply to a  
15 health maintenance organization that provides health care services  
16 through managed care to recipients of Medicaid under the State Plan  
17 for Medicaid or insurance pursuant to the Children's Health  
18 Insurance Program pursuant to a contract with the Division of  
19 Health Care Financing and Policy of the Department of Health and  
20 Human Services. This subsection does not exempt a health  
21 maintenance organization from any provision of this chapter for  
22 services provided pursuant to any other contract.

23 5. The provisions of NRS 695C.1694, 695C.1695, 695C.1708,  
24 695C.1731, 695C.17345 and 695C.1757 apply to a health  
25 maintenance organization that provides health care services through  
26 managed care to recipients of Medicaid under the State Plan for  
27 Medicaid.

28 **Sec. 9.** NRS 695C.330 is hereby amended to read as follows:

29 695C.330 1. The Commissioner may suspend or revoke any  
30 certificate of authority issued to a health maintenance organization  
31 pursuant to the provisions of this chapter if the Commissioner finds  
32 that any of the following conditions exist:

33 (a) The health maintenance organization is operating  
34 significantly in contravention of its basic organizational document,  
35 its health care plan or in a manner contrary to that described in and  
36 reasonably inferred from any other information submitted pursuant  
37 to NRS 695C.060, 695C.070 and 695C.140, unless any amendments  
38 to those submissions have been filed with and approved by the  
39 Commissioner;

40 (b) The health maintenance organization issues evidence of  
41 coverage or uses a schedule of charges for health care services  
42 which do not comply with the requirements of NRS 695C.1691 to  
43 695C.200, inclusive, *and section 7 of this act* or 695C.207;

44 (c) The health care plan does not furnish comprehensive health  
45 care services as provided for in NRS 695C.060;



- 1 (d) The Commissioner certifies that the health maintenance  
2 organization:
- 3 (1) Does not meet the requirements of subsection 1 of NRS  
4 695C.080; or
- 5 (2) Is unable to fulfill its obligations to furnish health care  
6 services as required under its health care plan;
- 7 (e) The health maintenance organization is no longer financially  
8 responsible and may reasonably be expected to be unable to meet its  
9 obligations to enrollees or prospective enrollees;
- 10 (f) The health maintenance organization has failed to put into  
11 effect a mechanism affording the enrollees an opportunity to  
12 participate in matters relating to the content of programs pursuant to  
13 NRS 695C.110;
- 14 (g) The health maintenance organization has failed to put into  
15 effect the system required by NRS 695C.260 for:
- 16 (1) Resolving complaints in a manner reasonably to dispose  
17 of valid complaints; and
- 18 (2) Conducting external reviews of adverse determinations  
19 that comply with the provisions of NRS 695G.241 to 695G.310,  
20 inclusive;
- 21 (h) The health maintenance organization or any person on its  
22 behalf has advertised or merchandised its services in an untrue,  
23 misrepresentative, misleading, deceptive or unfair manner;
- 24 (i) The continued operation of the health maintenance  
25 organization would be hazardous to its enrollees;
- 26 (j) The health maintenance organization fails to provide the  
27 coverage required by NRS 695C.1691; or
- 28 (k) The health maintenance organization has otherwise failed to  
29 comply substantially with the provisions of this chapter.
- 30 2. A certificate of authority must be suspended or revoked only  
31 after compliance with the requirements of NRS 695C.340.
- 32 3. If the certificate of authority of a health maintenance  
33 organization is suspended, the health maintenance organization shall  
34 not, during the period of that suspension, enroll any additional  
35 groups or new individual contracts, unless those groups or persons  
36 were contracted for before the date of suspension.
- 37 4. If the certificate of authority of a health maintenance  
38 organization is revoked, the organization shall proceed, immediately  
39 following the effective date of the order of revocation, to wind up its  
40 affairs and shall conduct no further business except as may be  
41 essential to the orderly conclusion of the affairs of the organization.  
42 It shall engage in no further advertising or solicitation of any kind.  
43 The Commissioner may, by written order, permit such further  
44 operation of the organization as the Commissioner may find to be in  
45 the best interest of enrollees to the end that enrollees are afforded



1 the greatest practical opportunity to obtain continuing coverage for  
2 health care.

3 **Sec. 10.** Chapter 695G of NRS is hereby amended by adding  
4 thereto a new section to read as follows:

5 *1. A managed care organization which offers or issues a*  
6 *health care plan which provides coverage through a network plan*  
7 *shall include in the health care plan:*

8 *(a) A notice that the provisions of section 1 of this act apply to*  
9 *health care services received from an out-of-network physician*  
10 *while covered by the health care plan; and*

11 *(b) A procedure for the recovery of a copayment, deductible or*  
12 *coinsurance from a person covered by the health care plan for any*  
13 *reimbursement paid pursuant to section 1 of this act.*

14 *2. As used in this section:*

15 *(a) "Health care service" has the meaning ascribed to it in*  
16 *section 1 of this act.*

17 *(b) "Network plan" has the meaning ascribed to it in section 1*  
18 *of this act.*

19 *(c) "Out-of-network" has the meaning ascribed to it in section*  
20 *1 of this act.*

21 *(d) "Physician" has the meaning ascribed to it in section 1 of*  
22 *this act.*

23 **Sec. 11.** NRS 695G.090 is hereby amended to read as follows:

24 695G.090 1. Except as otherwise provided in subsection 3,  
25 the provisions of this chapter apply to each organization and insurer  
26 that operates as a managed care organization and may include,  
27 without limitation, an insurer that issues a policy of health  
28 insurance, an insurer that issues a policy of individual or group  
29 health insurance, a carrier serving small employers, a fraternal  
30 benefit society, a hospital or medical service corporation and a  
31 health maintenance organization.

32 2. In addition to the provisions of this chapter, each managed  
33 care organization shall comply with:

34 (a) The provisions of chapter 686A of NRS, including all  
35 obligations and remedies set forth therein; and

36 (b) Any other applicable provision of this title.

37 3. The provisions of NRS 695G.164, 695G.1645, 695G.167,  
38 695G.200 to 695G.230, inclusive, and 695G.430 *and section 10 of*  
39 *this act* do not apply to a managed care organization that provides  
40 health care services to recipients of Medicaid under the State Plan  
41 for Medicaid or insurance pursuant to the Children's Health  
42 Insurance Program pursuant to a contract with the Division of  
43 Health Care Financing and Policy of the Department of Health and  
44 Human Services. This subsection does not exempt a managed care





1 organization from any provision of this chapter for services  
2 provided pursuant to any other contract.

3 **Sec. 12.** NRS 287.010 is hereby amended to read as follows:

4 287.010 1. The governing body of any county, school  
5 district, municipal corporation, political subdivision, public  
6 corporation or other local governmental agency of the State of  
7 Nevada may:

8 (a) Adopt and carry into effect a system of group life, accident  
9 or health insurance, or any combination thereof, for the benefit of its  
10 officers and employees, and the dependents of officers and  
11 employees who elect to accept the insurance and who, where  
12 necessary, have authorized the governing body to make deductions  
13 from their compensation for the payment of premiums on the  
14 insurance.

15 (b) Purchase group policies of life, accident or health insurance,  
16 or any combination thereof, for the benefit of such officers and  
17 employees, and the dependents of such officers and employees, as  
18 have authorized the purchase, from insurance companies authorized  
19 to transact the business of such insurance in the State of Nevada,  
20 and, where necessary, deduct from the compensation of officers and  
21 employees the premiums upon insurance and pay the deductions  
22 upon the premiums.

23 (c) Provide group life, accident or health coverage through a  
24 self-insurance reserve fund and, where necessary, deduct  
25 contributions to the maintenance of the fund from the compensation  
26 of officers and employees and pay the deductions into the fund. The  
27 money accumulated for this purpose through deductions from the  
28 compensation of officers and employees and contributions of the  
29 governing body must be maintained as an internal service fund as  
30 defined by NRS 354.543. The money must be deposited in a state or  
31 national bank or credit union authorized to transact business in the  
32 State of Nevada. Any independent administrator of a fund created  
33 under this section is subject to the licensing requirements of chapter  
34 683A of NRS, and must be a resident of this State. Any contract  
35 with an independent administrator must be approved by the  
36 Commissioner of Insurance as to the reasonableness of  
37 administrative charges in relation to contributions collected and  
38 benefits provided. The provisions of NRS 687B.408, 689B.030 to  
39 689B.050, inclusive, *and section 4 of this act* and 689B.287 apply  
40 to coverage provided pursuant to this paragraph.

41 (d) Defray part or all of the cost of maintenance of a self-  
42 insurance fund or of the premiums upon insurance. The money for  
43 contributions must be budgeted for in accordance with the laws  
44 governing the county, school district, municipal corporation,



1 political subdivision, public corporation or other local governmental  
2 agency of the State of Nevada.

3 2. If a school district offers group insurance to its officers and  
4 employees pursuant to this section, members of the board of trustees  
5 of the school district must not be excluded from participating in the  
6 group insurance. If the amount of the deductions from compensation  
7 required to pay for the group insurance exceeds the compensation to  
8 which a trustee is entitled, the difference must be paid by the trustee.

9 3. In any county in which a legal services organization exists,  
10 the governing body of the county, or of any school district,  
11 municipal corporation, political subdivision, public corporation or  
12 other local governmental agency of the State of Nevada in the  
13 county, may enter into a contract with the legal services  
14 organization pursuant to which the officers and employees of the  
15 legal services organization, and the dependents of those officers and  
16 employees, are eligible for any life, accident or health insurance  
17 provided pursuant to this section to the officers and employees, and  
18 the dependents of the officers and employees, of the county, school  
19 district, municipal corporation, political subdivision, public  
20 corporation or other local governmental agency.

21 4. If a contract is entered into pursuant to subsection 3, the  
22 officers and employees of the legal services organization:

23 (a) Shall be deemed, solely for the purposes of this section, to be  
24 officers and employees of the county, school district, municipal  
25 corporation, political subdivision, public corporation or other local  
26 governmental agency with which the legal services organization has  
27 contracted; and

28 (b) Must be required by the contract to pay the premiums or  
29 contributions for all insurance which they elect to accept or of which  
30 they authorize the purchase.

31 5. A contract that is entered into pursuant to subsection 3:

32 (a) Must be submitted to the Commissioner of Insurance for  
33 approval not less than 30 days before the date on which the contract  
34 is to become effective.

35 (b) Does not become effective unless approved by the  
36 Commissioner.

37 (c) Shall be deemed to be approved if not disapproved by the  
38 Commissioner within 30 days after its submission.

39 6. As used in this section, "legal services organization" means  
40 an organization that operates a program for legal aid and receives  
41 money pursuant to NRS 19.031.

42 **Sec. 13.** NRS 287.04335 is hereby amended to read as  
43 follows:

44 287.04335 If the Board provides health insurance through a  
45 plan of self-insurance, it shall comply with the provisions of



1 NRS 689B.255, 695G.150, 695G.160, 695G.162, 695G.164,  
2 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.173,  
3 inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to  
4 695G.310, inclusive, and 695G.405, *and section 10 of this act* in the  
5 same manner as an insurer that is licensed pursuant to title 57 of  
6 NRS is required to comply with those provisions.

7 **Sec. 14.** The provisions of NRS 354.599 do not apply to any  
8 additional expenses of a local government that are related to the  
9 provisions of this act.

10 **Sec. 15.** This act becomes effective:

11 1. Upon passage and approval for the purpose of adopting any  
12 regulations and performing any preparatory administrative tasks  
13 necessary to carry out the provisions of this act; and

14 2. On January 1, 2018, for all other purposes.



