

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1723 Session of 2021

INTRODUCED BY FRANKEL, SANCHEZ, D. WILLIAMS, FREEMAN, GUENST, VITALI, HOHENSTEIN, WEBSTER, SIMS, GALLOWAY, MADDEN, INNAMORATO, DELLOSO, DeLUCA, ISAACSON, CIRESI, DRISCOLL, McCLINTON, ROZZI, CONKLIN, KINKEAD, LONGIETTI, McNEILL, A. DAVIS, HENNESSEY AND FITZGERALD, JULY 19, 2021

REFERRED TO COMMITTEE ON HEALTH, JULY 19, 2021

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
 2 act relating to health care; prescribing the powers and
 3 duties of the Department of Health; establishing and
 4 providing the powers and duties of the State Health
 5 Coordinating Council, health systems agencies and Health Care
 6 Policy Board in the Department of Health, and State Health
 7 Facility Hearing Board in the Department of Justice;
 8 providing for certification of need of health care providers
 9 and prescribing penalties," providing for off-campus facility
 10 fees.

11 The General Assembly of the Commonwealth of Pennsylvania
 12 hereby enacts as follows:

13 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
 14 as the Health Care Facilities Act, is amended by adding a
 15 chapter to read:

16 CHAPTER 8-A

17 OFF-CAMPUS FACILITY FEES

18 Section 801-A. Definitions.

19 The following words and phrases when used in this chapter
 20 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Campus." The following:

3 (1) the main buildings of a health care facility;

4 (2) the physical area immediately adjacent to the main
5 buildings or other areas or structures not strictly
6 contiguous to the main buildings of a health care facility
7 that are located within 250 yards of the main buildings; or

8 (3) any other area determined on an individual case
9 basis by the Centers for Medicare & Medicaid Services to be
10 part of the campus of a health care facility.

11 "Council." The Health Care Cost Containment Council.

12 "COVID-19." The novel coronavirus as identified in the
13 Governor's proclamation of disaster emergency issued on March 6,
14 2020, published at 50 Pa.B. 1644 (March 21, 2020).

15 "COVID-19 fee." Any fee charged or billed by a health care
16 provider for additional personal protective equipment, cleaning
17 supplies or cleaning services utilized as a result of the SARS-
18 CoV-2 pandemic.

19 "Current procedural terminology." The codes, descriptions
20 and guidelines as included in the current procedural terminology
21 manual published by the American Medical Association in effect
22 at the time of the effective date of this section.

23 "Facility fee." Any fee charged or billed by a health care
24 provider for outpatient services provided in an off-campus
25 health care facility that is:

26 (1) Intended to compensate the health care provider for
27 the operational expenses of the health care provider.

28 (2) Separate and distinct from a professional fee.

29 (3) Irrespective of the modality through which the
30 health care service was provided.

1 "Medical service." As defined in section 2 of the act of
2 December 20, 1985 (P.L.457, No.112), known as the Medical
3 Practice Act of 1985.

4 "Off-campus health care facility." A facility that is not
5 located on the campus of a health care facility.

6 "Professional fee." Any fee charged or billed by a provider
7 for professional medical services provided in a health care
8 facility.

9 Section 802-A. Prohibited fees.

10 A health care provider may not charge, bill or collect the
11 following fees:

12 (1) A COVID-19 fee; or

13 (2) A facility fee for:

14 (i) services provided in an off-campus health care
15 facility;

16 (ii) outpatient evaluation and management services;
17 or

18 (iii) any outpatient, diagnostic or imaging service
19 identified by the department under section 804-A.

20 Section 803-A. Duties of health care provider.

21 A health care provider shall provide written notice:

22 (1) To a patient or the patient's authorized
23 representative under 42 CFR § 413.65(g)(7)(iii) (relating to
24 requirements for a determination that a facility or an
25 organization has provider-based status).

26 (2) To the patient at least 48 hours before the
27 performance of medical services, including diagnosis, care or
28 treatment in an off-campus health care facility. The notice
29 under this paragraph shall include:

30 (i) The dollar amount of the patient's potential

1 financial liability, if known; or

2 (ii) If the diagnosis and the extent of medical
3 services is unknown within the 48-hour period, a
4 statement advising the patient or the patient's
5 authorized representative that the patient may incur a
6 financial liability to the health care facility that the
7 patient would not incur if the patient was receiving
8 medical services and treatment on the campus of the
9 health care facility.

10 (iii) A statement advising the patient, or the
11 patient's authorized representative, that the patient's
12 actual financial liability is based on the medical
13 services rendered by the health care facility.

14 (3) In a method that the patient can understand.

15 (4) To the patient's authorized representative at least
16 48 hours prior to the delivery of medical services to the
17 patient if the patient is unconscious, under significant
18 duress or otherwise unable to read, comprehend or act on the
19 patient's own behalf.

20 (5) As soon as possible after the existence of an
21 emergency has been ruled out or the emergency condition has
22 been stabilized in situations where an off-campus health care
23 facility provides examination or treatment.

24 Section 804-A. Identification of medical services.

25 The department shall annually identify medical services
26 subject to the limitations on facility fees provided in section
27 802-A and submit the list of identified medical services to the
28 Legislative Reference Bureau for publication in the Pennsylvania
29 Bulletin.

30 Section 805-A. Reporting requirements.

1 (a) Submissions.--Each health care provider shall submit the
2 following reports to the council:

3 (1) A report enumerating the COVID-19 fees associated
4 with care and treatment of COVID-19 charged and billed by the
5 health care provider prior to the effective date of this
6 section. The report under this paragraph may be included in
7 the report required under paragraph (2).

8 (2) An annual report concerning facility fees billed
9 during the preceding calendar year. The report under this
10 paragraph shall be in the format specified by the council.
11 The council shall submit the report to the Legislative
12 Reference Bureau for publication in the Pennsylvania
13 Bulletin.

14 (b) Report content.--The reports under subsection (a) shall
15 include:

16 (1) The name and full address of each health care
17 facility owned or operated by the health care provider that
18 provides medical services for which a COVID-19 fee or
19 facility fee is charged or billed.

20 (2) The number of patient visits at each health care
21 facility for which a facility fee was charged or billed.

22 (3) The number, total amount and types of allowable
23 facility fees paid at each health care facility by Medicare,
24 Medicaid and private insurance.

25 (4) For each health care facility and the health care
26 provider, the total amount billed and the total revenue
27 received from COVID-19 fees and facility fees.

28 (5) The 10 most frequent procedures or services,
29 identified by current procedural terminology category I
30 codes, provided by the health care provider that generated

1 the largest amount of facility fee gross revenue, including:

2 (i) The volume of each procedure or service under
3 this paragraph.

4 (ii) The gross and net revenue totals for each
5 procedure or service under this paragraph.

6 (iii) The total net amount of revenue received by
7 the health care provider derived from facility fees for
8 each procedure or service under this paragraph.

9 (6) The 10 most frequent procedures or services,
10 identified by current procedural terminology category I
11 codes, based on patient volume, provided by the health care
12 provider for which facility fees are billed or charged based
13 on patient volume, including the gross and net revenue totals
14 received for each such procedure or service.

15 (7) Any other information related to COVID-19 fees and
16 facility fees the council may require.

17 Section 806-A. Regulatory authorization.

18 The council may promulgate regulations necessary to implement
19 this section, specify the format and content of reports and
20 impose penalties for noncompliance consistent with the council's
21 authority under 35 Pa.C.S. Ch. 33 (relating to health care cost
22 containment).

23 Section 807-A. Enforcement.

24 (a) General rule.--Except as provided in subsection (b), the
25 department shall enforce the provisions of this chapter and
26 shall adopt and promulgate regulations to carry out the
27 provisions of this chapter.

28 (b) Penalty.--A health care provider or health care facility
29 that fails to provide notice under section 803-A and supply the
30 data under section 805-A may be subject to the penalty under

1 section 35 Pa.C.S. § 3310(b) (relating to enforcement and
2 penalty).

3 (c) Audit.--The department or a designee may audit any
4 health care provider for compliance with the requirements of
5 this chapter. Each health care provider shall make available,
6 upon written request of the department or a designee, a copy of
7 any books, documents, records or data necessary for the audit
8 under this subsection for a period of four years after the
9 furnishing of any services for which a COVID-19 fee or facility
10 fee was charged, billed or collected.

11 Section 2. This act shall take effect in 60 days.