S.309

Introduced by Senators Lyons, Ingram, McCormack, Pearson and Westman

Referred to Committee on

Date:

Subject: Health; health insurance; health care providers; contract provisions; surprise billing

Statement of purpose of bill as introduced: This bill proposes to prohibit certain provisions in contracts between health insurers and health care providers. It would also limit patients' out-of-pocket exposure for emergency services delivered at out-of-network health care facilities and for nonemergency services delivered by out-of-network providers at in-network facilities.

An act relating to limitations on health care contract provisions and surprise medical bills

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 9418c is amended to read:

§ 9418c. FAIR CONTRACT STANDARDS

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(c) Provision of information. When a contracting entity presents a proposed health care contract for consideration by a provider, the contracting

entity shall provide in writing or make reasonably available the information required in subdivisions (a)(1)(A) and (B) of this section.

(d) Evaluation and review programs. Upon request, the contracting entity shall identify any utilization management, quality improvement, price or quality transparency program, or a similar program that the contracting entity uses to review, monitor, evaluate, or assess the services provided pursuant to a health care contract. The contracting entity shall disclose the policies, procedures, or guidelines of such a program upon request by the participating provider who is subject to or is participating in the program within 14 days after the date of the request.

(e) Confidentiality agreements. The requirements of subdivision (b)(5) of this section do not prohibit a contracting entity from requiring a reasonable confidentiality agreement between the provider and the contracting entity regarding the terms of the proposed health care contract.

(f) Prohibited contract provisions. A health care contract between a health plan or other contracting entity and a health care provider shall not include any of the following:

(1) A provision that transfers to the provider liability related to the cost of care provided by other participating or nonparticipating health care providers. This prohibition shall not apply to an agreed-upon written contract between a health plan and a health care provider or group of health care

providers that specifically waiver the provisions of this subdivision for the purposes of bearing risk for the cost of care.

(2) A provision that prohibits, or that provides financial or administrative incentives to forgo, providing health care services to an insured or referring an insured for health care services, including services from nonparticipating health care providers.

(3) A provision that imposes responsibility on a health care provider for informing insureds about the contracted or participation status of other health care providers.

Sec. 2. 18 V.S.A. § 9422 is added to read:

§ 9422. SURPRISE MEDICAL BILLS

(a) Definitions. As used in this section:

(1) "Cost-sharing amount" means a co-payment amount or coinsurance rate.

(2) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson possessing an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

(A) placing the health of the individual or, with respect to a pregnant individual, the health of the individual or the unborn child, in serious jeopardy;

(B) serious impairment to bodily functions; or

(C) serious dysfunction of any bodily organ or part.

(3) "Emergency medical services" means:

(A) a medical screening examination, as required by the Emergency Medical Treatment and Labor Act, 42 U.S.C. § 1395dd, that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition; and

(B) any further medical examination and treatment to stabilize the patient that are within the capabilities of the hospital staff and facilities, as required by the Emergency Medical Treatment and Labor Act, 42 U.S.C. § 1395dd.

(b) Emergency services; nonparticipating provider. For emergency services delivered to an insured by a nonparticipating health care provider, a health plan:

(1) shall not impose on the insured a cost-sharing amount for the items and services delivered that is greater than the cost-sharing amount that would apply under the plan if the items and services had been delivered by a participating health care provider; and

(2) shall pay to the provider delivering the items and services the reasonable and customary value for the items and services provided, except

that it shall be the responsibility of the health insurer to respond to, defend against, and resolve any health care provider request or claim for payment exceeding the amount the health plan paid or reimbursed the health care provider pursuant to this subsection.

(c) Nonemergency services; nonparticipating provider at participating facility. For nonemergency services delivered to an insured by a nonparticipating health care provider at a participating health care facility, including imaging or laboratory services delivered pursuant to an order from a participating provider, a health plan:

(1) shall not impose on the insured a cost-sharing amount for the items and services delivered that is greater than the cost-sharing amount that would apply under the plan if the items and services had been delivered by a participating health care provider; and

(2) shall pay to the provider delivering the items and services the reasonable and customary value for the items and services provided, except that it shall be the responsibility of the health insurer to respond to, defend against, and resolve any health care provider request or claim for payment exceeding the amount the health plan paid or reimbursed the health care provider pursuant to this subsection.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.