

Regular Session, 2012

HOUSE BILL NO. 429

BY REPRESENTATIVE TALBOT

INSURANCE/HEALTH: Provides relative to balance billing by noncontracted facility-based physicians for covered health care services rendered in an in-network health care facility

1 AN ACT

2 To enact R.S. 22:1882, relative to noncontracted facility-based physicians providing covered
3 health care services rendered in an in-network health care facility; to provide for
4 definitions; to provide with respect to reimbursement of such physicians by health
5 insurance issuers; to provide for binding arbitration in certain circumstances; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

9 §1882. Payment of claims for covered health care services provided by
10 noncontracted, facility-based physicians in in-network health care facilities

11 A. For purposes of this Section:

12 (1) "Base health care facility" means a facility or institution providing health
13 care services, including but not limited to a hospital or other licensed inpatient
14 center, ambulatory surgical or treatment center, skilled nursing facility, inpatient
15 hospice facility, residential treatment center, diagnostic, laboratory, or imaging
16 center, or rehabilitation or other therapeutic health setting that has entered into a
17 contract or agreement with a facility-based physician. Pursuant to such contract or
18 agreement, the facility-based physician agrees to provide required health care

1 services to those enrollees or insureds of the health insurance issuer presenting at
2 such facility, within the scope of the physician's respective specialty.

3 (2) "Noncontracted facility-based physician" means a physician licensed to
4 practice medicine who is required by a base health facility to provide services in the
5 base health care facility, including an anesthesiologist, hospitalist, intensivist,
6 neonatologist, pathologist, or radiologist, that does not contract with a health
7 insurance issuer.

8 B.(1) If a facility-based physician files a claim with a health insurance issuer
9 for covered health care services rendered to an enrollee or insured in an in-network
10 health care facility, the health insurance issuer shall directly pay such claim by the
11 noncontracted facility-based physician and shall reimburse him in an amount not less
12 than the greatest of one of the following:

13 (a) The amount negotiated with contracted facility-based physicians for
14 covered health care services that are imposed with respect to the enrollee or insured,
15 excluding any applicable in-network coinsurance, copayments, deductibles,
16 noncovered services, or any other amounts identified by the health insurance issuer
17 pursuant to plan or policy provisions as an amount for which the enrollee or insured
18 is liable.

19 (b) The amount of the covered health care services calculated using the same
20 method a health insurance issuer uses to determine payments for out-of-network
21 health care services, but using the in-network cost-sharing provisions instead of the
22 out-of-network cost-sharing provisions.

23 (c) The amount that would be paid under Medicare for the covered health
24 care services, excluding any applicable in-network coinsurance, copayments,
25 deductibles, noncovered services, or any other amounts identified by the health
26 insurance issuer pursuant to plan or policy provisions as an amount for which the
27 enrollee or insured is liable.

1 (2)(a) For capitated or other health insurance issuers that do not have a
2 negotiated per-service amount for contracted facility -based physicians, Subparagraph
3 (1)(a) of this Subsection shall not apply.

4 (b) If a health insurance issuer has more than one negotiated amount for
5 contracted facility-based physicians for a particular covered health care service, the
6 amount in Subparagraph (1)(a) of this Subsection is the median of these negotiated
7 amounts.

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

10 C.(1) Notwithstanding any other provisions of law to the contrary, in the case
11 where a noncontracted facility-based physician fails to file a claim with a health
12 insurance issuer for covered health care services rendered to an enrollee or insured
13 in an in-network health care facility, the enrollee or insured shall be indemnified and
14 held harmless by the health insurance issuer for such claim. The health insurance
15 issuer shall be liable for reimbursement to the noncontracted facility-based physician
16 for the covered health care services, except for any applicable in-network
17 coinsurance, copayments, deductibles, noncovered services, or any other amounts
18 identified by the health insurance issuer pursuant to plan or policy provisions as an
19 amount for which the enrollee or insured is liable. A noncontracted facility-based
20 physician shall be prohibited from billing an enrollee or insured for reimbursement
21 for covered health care services, except for any applicable in-network coinsurance,
22 copayments, deductibles, noncovered services, or any other amounts identified by
23 the health insurance issuer pursuant to plan or policy provisions as an amount for
24 which the enrollee or insured is liable.

25 (2) If the attempts between the health insurance issuer and the noncontracted
26 facility-based physician to negotiate or pay the noncontracted facility-based
27 physician for covered health care services rendered to an enrollee or insured in an
28 in-network health care facility do not result in resolution of the payment dispute
29 within thirty days after receipt of a written explanation of benefits by the health

1 insurance issuer, then the health insurance issuer or the noncontracted facility-based
 2 physician may initiate binding arbitration to determine payment of the subject
 3 covered health care services. The party initiating arbitration shall notify the other
 4 party that arbitration has been initiated and state its final offer before arbitration
 5 occurs. In response to this notice, the party not initiating arbitration shall inform the
 6 party initiating arbitration of its final offer before arbitration occurs.

7 D. The provisions of this Section shall not apply to limited benefit health
 8 plans, policies, or contracts.

9 Section 2. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

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)]

Talbot

HB No. 429

Abstract: Provides relative to balance billing by noncontracted facility-based physicians for covered health care services rendered at an in-network health care facility by providing with respect to reimbursement of such physicians by health insurance issuers and providing for binding arbitration in certain circumstances.

Proposed law provides with respect to reimbursement of noncontracted facility-based physicians of covered health care services as follows:

- (1) Defines the terms "noncontracted facility-based physician" and "base health care facility".
- (2) Provides that if a facility-based physician files a claim with a health insurance issuer for covered health care services rendered to an enrollee or insured in an in-network health care facility, the health insurance issuer shall directly pay such claim by the noncontracted facility-based physician and shall reimburse him in an amount not less than the greatest of one of the following:
 - (a) The amount negotiated with contracted facility-based physicians for covered health care services that are imposed with respect to the enrollee or insured, excluding any applicable amounts identified by the health insurance issuer pursuant to plan or policy provisions as an amount for which the enrollee or insured is liable.

- (b) The amount of the covered health care services calculated using the same method a health insurance issuer uses to determine payments for out-of-network health care services, but using the in-network cost-sharing provisions instead of the out-of-network cost-sharing provisions.
 - (c) The amount that would be paid under Medicare for the covered health care services, excluding any applicable amounts for which the enrollee or insured is liable.
- (3) Further provides that for capitated or other health insurance issuers that do not have a negotiated per-service amount for contracted facility-based physicians, (2)(a) above shall not apply. Further provides that if a health insurance issuer has more than one negotiated amount for contracted facility-based physicians for a particular covered health care service, the amount in (2)(a) above shall be the median of these negotiated amounts.
 - (4) Prohibits payment of any claim by a health insurance issuer directly to a patient, enrollee, or insured.
 - (5) Additionally provides that in the case where a noncontracted facility-based physician fails to file a claim with a health insurance issuer for covered health care services rendered to an enrollee or insured in an in-network health care facility, the enrollee or insured shall be indemnified and held harmless by the health insurance issuer for such claim. Makes the health insurance issuer liable for reimbursement to the noncontracted facility-based physician for the covered health care services, except for any applicable amounts which the enrollee or insured is liable. Prohibits a noncontracted facility-based physician from billing an enrollee or insured for reimbursement for covered health care services, except for any applicable amounts for which the enrollee or insured is liable.
 - (6) Also provides that if the attempts between the health insurance issuer and the noncontracted facility-based physician to negotiate or pay him for covered health care services rendered to an enrollee or insured in an in-network health care facility do not result in resolution of the payment dispute within 30 days after receipt of a written explanation of benefits by the health insurance issuer, then the health insurance issuer or the noncontracted facility-based physician may initiate binding arbitration to determine payment of the subject covered health care services. Requires the party initiating arbitration to notify the other party that arbitration has been initiated and state its final offer before arbitration occurs. In response to this notice, requires the party not initiating arbitration to inform the other party initiating arbitration of its final offer before arbitration occurs.
 - (7) Exempts limited benefit health insurance policies or contracts from its provisions.

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

(Adds R.S. 22:1882)