

SENATE, No. 2906

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 14, 2015

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

Limits payments under health benefits plans to in-network amounts in certain circumstances; prohibits out-of-network health providers from charging carriers more than 150 percent of Medicare rate in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certain health care costs and supplementing
2 Title 26 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this act:

8 “Carrier” means an insurance company, health service
9 corporation, hospital service corporation, medical service
10 corporation, or health maintenance organization authorized to issue
11 health benefits plans in this State, and the State Health Benefits
12 Program and School Employees’ Health Benefits Program.

13 “Covered person” means a person on whose behalf a carrier
14 offering the plan is obligated to pay benefits or provide services
15 pursuant to the health benefits plan.

16 “Covered service” or “service” means a health care service
17 provided to a covered person under a health benefits plan for which
18 the carrier is obligated to pay benefits or provide health care
19 services.

20 “Health benefits plan” means a benefits plan which pays or
21 provides hospital and medical expense benefits for covered
22 services, and is delivered or issued for delivery in this State by or
23 through a carrier. “Health benefits plan” includes, but is not limited
24 to, Medicare supplement coverage and risk contracts to the extent
25 not otherwise prohibited by federal law. For the purposes of this
26 act, “health benefits plan” shall not include the following plans,
27 policies, or contracts: accident only, credit, disability, long-term
28 care, TRICARE supplement coverage, coverage arising out of a
29 workers’ compensation or similar law, automobile medical payment
30 insurance, personal injury protection insurance issued pursuant to
31 P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement
32 indemnity coverage.

33 “Health care facility” means a hospital or other health care
34 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

35 “Health care professional” means a person licensed or otherwise
36 authorized to practice in a health care profession pursuant to Title
37 45 of the Revised Statutes.

38
39 2. Notwithstanding any law, rule, or regulation to the contrary:

40 a. With respect to a covered service at any health care facility
41 on an emergency or urgent basis, the health care facility shall not
42 bill the covered person for the service in an amount in excess of any
43 deductible, copayment, or coinsurance amount applicable to in-
44 network services pursuant to the covered person’s health benefits
45 plan and the covered person’s liability shall be limited to that
46 amount.

47 b. With respect to a covered service provided at an out-of-
48 network health care facility on an emergency or urgent basis, the
49 health care facility shall not bill the carrier for the service in an

1 amount in excess of 150 percent of the applicable payment rate
2 under the federal Medicare program established pursuant to
3 Pub.L.89-97 (42 U.S.C. s.1395 et seq.) and the carrier's liability
4 shall be limited to that amount.

5 c. With respect to a covered service provided by an out-of-
6 network health care professional at any health care facility on an
7 emergency or urgent basis, or provided by an out-of-network health
8 care professional at an in-network health care facility because in-
9 network services are unavailable at that facility, the health care
10 professional shall not bill:

11 (1) the covered person for the service in an amount in excess of
12 any deductible, copayment, or coinsurance amount applicable to in-
13 network services pursuant to the covered person's health benefits
14 plan and the covered person's liability shall be limited to that
15 amount; and

16 (2) the carrier for the service provided in an amount in excess of
17 150 percent of the applicable payment rate under the federal
18 Medicare program established pursuant to Pub.L.89-97 (42 U.S.C.
19 s.1395 et seq.) for that service and the carrier's liability shall be
20 limited to that amount.

21 d. Subsection c. of this section shall not apply to a covered
22 person who willfully chooses to access an out-of-network health
23 care provider for health care services.

24
25 3. a. A health care facility or health care professional that
26 violates any provision of this act shall be liable to a penalty of not
27 more than \$1,000 for each violation. Every day upon which a
28 violation occurs shall be considered a separate violation, but a
29 health care facility or a health care professional shall not be liable
30 to a penalty greater than \$25,000 for each occurrence. The
31 Commissioner of Banking and Insurance shall collect the penalty in
32 the name of the State in a summary proceeding in accordance with
33 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
34 10 et seq.).

35 b. Upon a finding that a health care facility or health care
36 professional has failed to comply with the requirements of this act,
37 including the payment of a penalty as determined under subsection
38 a. of this section, the commissioner may:

39 (1) in the case of a health care facility, refer the matter to the
40 Commissioner of Health for such action as the Commissioner of
41 Health determines appropriate; or

42 (2) in the case of a health care professional, refer the matter to
43 the appropriate professional and occupational licensing board
44 within the Division of Consumer Affairs in the Department of Law
45 and Public Safety for such action as the board determines
46 appropriate.

47
48 4. The Commissioner of Banking and Insurance, the
49 Commissioner of Health, and any relevant licensing board in the

1 Division of Consumer Affairs in the Department of Law and Public
2 Safety under Title 45 of the Revised Statutes, shall adopt rules and
3 regulations pursuant to the “Administrative Procedure Act,”
4 P.L.1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the
5 purposes of this act.

6
7 5. This act shall take effect on the first day of the fourth month
8 next following enactment. The Commissioner of Banking and
9 Insurance, the Department of Health and any relevant licensing
10 board may take such anticipatory administrative action in advance
11 thereof as shall be necessary for the implementation of this act.

12 13 14 STATEMENT 15

16 This bill codifies certain existing State regulations that protect
17 persons covered under health benefits plans by limiting their
18 payments to health care facilities and health care professionals to
19 in-network amounts in certain situations. Further, the bill limits
20 payments by carriers for out-of-network services to health care
21 facilities and health care professionals to 150 percent of the
22 Medicare payment rate in certain situations.

23 The bill defines carrier to mean an insurance company, health
24 service corporation, hospital service corporation, medical service
25 corporation, or health maintenance organization authorized to issue
26 health benefits plans in this State, and the State Health Benefits
27 Program and School Employees’ Health Benefits Program.

28 Specifically, the bill provides that:

- 29 ▪ With respect to a covered service at any health care facility
30 on an emergency or urgent basis, the health care facility
31 shall not bill the covered person for the service in an amount
32 in excess of any deductible, copayment, or coinsurance
33 amount applicable to in-network services pursuant to the
34 covered person’s health benefits plan and the covered
35 person’s liability shall be limited to that amount.
- 36 ▪ With respect to a covered service provided at an out-of-
37 network health care facility on an emergency or urgent basis,
38 the health care facility shall not bill the carrier for the
39 service in an amount in excess of 150 percent of the
40 applicable payment rate under the federal Medicare program
41 established pursuant to Pub.L.89-97 (42 U.S.C. s.1395 et
42 seq.) and the carrier’s liability shall be limited to that
43 amount.
- 44 ▪ With respect to a covered service provided by an out-of-
45 network health care professional at any health care facility
46 on an emergency or urgent basis, or provided by an out-of-
47 network health care professional at an in-network health care
48 facility because in-network services are unavailable at that
49 facility, the health care professional shall not bill:

1 (1) the covered person for the service in an amount in
2 excess of any deductible, copayment, or coinsurance amount
3 applicable to in-network services pursuant to the covered
4 person's health benefits plan and the covered person's
5 liability shall be limited to that amount; and
6 (2) the carrier for the service in an amount in excess of 150
7 percent of the applicable payment rate under the federal
8 Medicare program established pursuant to Pub.L.89-97 (42
9 U.S.C. s.1395 et seq.) for that service and the carrier's
10 liability shall be limited to that amount.

11 A health care facility or health care professional that violates any
12 provision of the bill shall be liable to a penalty of not more than
13 \$1,000 for each violation. Every day upon which a violation occurs
14 shall be considered a separate violation, but a health care facility or
15 a health care professional shall not be liable to a penalty greater
16 than \$25,000 for each occurrence. The Commissioner of Banking
17 and Insurance shall collect the penalty in the name of the State in a
18 summary proceeding in accordance with the "Penalty Enforcement
19 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

20 Upon a finding that a health care facility or health care
21 professional has failed to comply with the requirements of the bill,
22 including the payment of a penalty under the bill's provisions, the
23 commissioner may:

24 (1) in the case of a health care facility, refer the matter to the
25 Commissioner of Health for such action as the Commissioner of
26 Health determines appropriate; or

27 (2) in the case of a health care professional, refer the matter to
28 the appropriate professional and occupational licensing board
29 within the Division of Consumer Affairs in the Department of Law
30 and Public Safety for such action as the board determines
31 appropriate.