

By Senator Garcia

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1 A bill to be entitled
2 An act relating to out-of-network health insurance
3 coverage; amending s. 395.003, F.S.; requiring
4 hospitals, ambulatory surgical centers, specialty
5 hospitals, and urgent care centers to comply with
6 certain provisions as a condition of licensure;
7 amending s. 456.072, F.S.; adding a ground for
8 discipline of referring health care providers by the
9 Department of Health; creating s. 627.64194, F.S.;
10 defining terms; specifying requirements for coverage
11 provided by an insurer for emergency services;
12 providing that an insurer is solely liable for payment
13 of certain fees to a provider; providing limitations
14 and requirements for reimbursements by an insurer to a
15 nonparticipating provider; requiring a specified
16 insurer to provide a disclosure to its insureds under
17 certain circumstances; requiring a specified facility
18 to provide a written disclosure and estimate to
19 patients under certain circumstances; requiring a
20 nonparticipating provider to provide a written
21 disclosure to a patient under certain circumstances;
22 providing that a patient is not liable for certain
23 charges if a nonparticipating provider fails to
24 provide such disclosure; amending s. 641.513, F.S.;
25 revising the methodology for determining health
26 maintenance organization reimbursement amounts for
27 emergency services and care provided by certain
28 providers; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (d) is added to subsection (5) of

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33 section 395.003, Florida Statutes, to read:

34 395.003 Licensure; denial, suspension, and revocation.—

35 (5)

36 (d) A hospital, ambulatory surgical center, specialty
37 hospital, or urgent care center shall comply with the provisions
38 of ss. 627.64194 and 641.513 as a condition of licensure.

39 Section 2. Paragraph (oo) is added to subsection (1) of
40 section 456.072, Florida Statutes, to read:

41 456.072 Grounds for discipline; penalties; enforcement.—

42 (1) The following acts shall constitute grounds for which
43 the disciplinary actions specified in subsection (2) may be
44 taken:

45 (oo) Serving as an officer or director of a business
46 entity, or group practice as defined in s. 456.053, and failing
47 to comply with the provisions of s. 627.64194 or s. 641.513 with
48 such frequency as to constitute a general business practice.

49 Section 3. Section 627.64194, Florida Statutes, is created
50 to read:

51 627.64194 Coverage for out-of-network services.—

52 (1) As used in this section, the term:

53 (a) "Coverage for emergency services" means the coverage
54 provided by a health insurance policy for "emergency services
55 and care" as defined in s. 641.47.

56 (b) "Participating provider" means a "preferred provider"
57 as defined in s. 627.6471 and an "exclusive provider" as defined
58 in s. 627.6472, including provider facilities.

59 (2) An insurer must provide coverage for emergency services
60 that:

61 (a) May not require a prior authorization determination.

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62 (b) Must be provided regardless of whether the service is
63 furnished by a participating or nonparticipating provider.

64 (c) May impose a coinsurance amount, copayment, or
65 limitation of benefits requirement for a nonparticipating
66 provider only if the same requirement applies to a participating
67 provider.

68 (3) An insurer is solely liable for payment of fees to a
69 provider and an insured is not liable for payment of fees to a
70 provider, other than applicable copayments and deductibles, for
71 medical services and care that are:

72 (a) Not emergency services and care as defined in s.
73 395.002;

74 (b) Provided in a facility licensed under chapter 395 which
75 has a contract with the insurer; and

76 (c) Provided by a nonparticipating provider where the
77 insured has no ability and opportunity to choose a participating
78 provider at the facility.

79 (4) A nonparticipating provider may not be reimbursed an
80 amount greater than that provided under subsection (5) and may
81 not collect or attempt to collect, directly or indirectly, any
82 excess amount.

83 (5) An insurer must reimburse a nonparticipating provider
84 as provided in subsections (2) and (3) the greater of the
85 following:

86 (a) The amount negotiated with an in-network provider in
87 the same community where the services were provided, excluding
88 any in-network copayment or coinsurance imposed pursuant to the
89 policy;

90 (b) The usual and customary reimbursement received by a

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91 provider for the same service in the community where the service
92 was provided, reduced only by any coinsurance amount or
93 copayment that applies to the provider; or

94 (c) The amount that would be paid under Medicare for the
95 service, reduced only by any coinsurance amount or copayment
96 that applies to the provider.

97 (6) An insurer issuing a health insurance policy that
98 provides coverage for medical and related services within a
99 facility licensed under chapter 395 shall disclose to its
100 insureds whether the facility contracts with nonparticipating
101 providers. Such disclosure may be displayed on the insurer's
102 member website or directly distributed by the insurer to its
103 insureds.

104 (7) Upon scheduling services or admitting a patient for
105 treatment of a condition other than an emergency medical
106 condition, a facility licensed under chapter 395 shall disclose,
107 in writing, to the patient all of the following information:

108 (a) The names, office addresses, and telephone numbers of
109 providers who will treat the patient, and which of those
110 providers are nonparticipating providers. The facility shall
111 identify only those providers who are reasonably expected to
112 provide specific medical services and treatment scheduled to be
113 received by the insured.

114 (b) A statement that nonparticipating providers may
115 directly bill patients with health insurance for services
116 rendered within the facility, even after the nonparticipating
117 provider has been reimbursed by the patient's insurer.

118 (8) A nonparticipating provider who treats a patient for a
119 condition other than an emergency medical condition at a

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120 facility licensed under chapter 395 shall disclose, in writing,
121 to the patient before providing medical services whether the
122 patient will be billed directly for such services and shall
123 provide a written estimate of the amount that will be billed
124 directly to the patient. A patient is not liable for any
125 charges, other than applicable copayments or deductibles, billed
126 to the patient by a nonparticipating provider who fails to
127 disclose such information and provide the required estimate.

128 Section 4. Subsection (5) of section 641.513, Florida
129 Statutes, is amended to read:

130 641.513 Requirements for providing emergency services and
131 care.—

132 (5) Reimbursement for services pursuant to this section by
133 a provider who does not have a contract with the health
134 maintenance organization shall be the greater ~~lesser~~ of:

135 (a) The Medicare allowable rate ~~provider's charges~~;

136 (b) The usual and customary reimbursement received by a
137 provider ~~charges~~ for the same service ~~similar services~~ in the
138 community where the service was ~~services were~~ provided; or

139 (c) The amount negotiated with a provider under a contract
140 with the health maintenance organization in the same community
141 where the emergency services were provided, excluding any
142 copayment payable by the subscriber pursuant to the contract
143 ~~charge mutually agreed to by the health maintenance organization~~
144 ~~and the provider within 60 days of the submittal of the claim.~~

145
146 Such reimbursement shall be net of any applicable copayment
147 authorized pursuant to subsection (4).

148 Section 5. This act shall take effect October 1, 2016.