

ASSIGNMENT OF BENEFITS – THE FINAL VERSION

As finally enacted, Senate Bill 314 (Health Insurance – Assignment of Benefits and Reimbursement of Nonpreferred Providers) **applies to PPO insurance policies issued, delivered or renewed, on or after July 1, 2011.** The new law shall remain in effect for 5 years and at the end of September 30, 2015 shall be abrogated unless renewed. The Bill requires an insurer to recognize an Assignment of Benefits (AOB) and to send the insurance payment directly to the physician who accepts AOB.

Physicians are **not required** to accept AOB but, if they do, there are certain consequences under Senate Bill 314. For physicians who accept AOB, Senate Bill 314 identifies three groups of physicians: (1) **hospital-based physicians**, (2) **on-call physicians** and (3) **all other physicians**.

In the “**all other physician**” category are office based physicians who may elect to receive AOB and will **not** be limited in the amount of their bill but must provide a disclosure to the patient giving an estimate of the costs of the services to be provided. The disclosure will be on a form to be developed by the Maryland Insurance Administration (MIA).

For **hospital-based physicians** who elect to receive AOB they may not “balance bill” the patient but they will be paid by the insurer the **greater of**:

1. 140% of the average contract rate paid in the preceding calendar year in the same Medicare geographic area for the same covered services **or**,
2. The final allowed amount that the insured paid in 2009 to the hospital-based physician billing under the same 2009 federal tax identification number. This amount shall be inflated by the change in the Medicare Economic Index to the current year.

For **on-call physicians** who elect to receive AOB, they may not “balance bill” the patient but they will be paid by the insurer the **greater of**:

1. 140% of the average contract rate the insurer paid in the previous calendar year in the same Medicare geographic area for the same covered service **or**,
2. The average rate the insurer paid in 2009 for the same covered services to a physician who was not under written contract with the insurer. This amount shall be inflated by the change in the Medicare Economic Index from 2010 to the current year.

Section 2 of the Bill provides that “it is the intent of the General Assembly that the rate paid by an insurer to a non-preferred provider who is an on-call physician or hospital-based physician...be no less than the rate paid by the insurer to the non-preferred provider as of December 31, 2009.”

Insurers are required to disclose to on-call physicians or hospital-based physicians the reimbursement rates necessary to make the “greater of” calculation applicable to each. A failure

to provide such a disclosure can result in a fine by the MIA of up to \$5,000 per violation. **Nevertheless, billing personnel should now document the amount that each insurer paid in 2009 so that there is a record of the “floor” for future billing.**

There are a number of studies required by Senate Bill 314. One study is by the MIA to determine the amounts now being paid by insurers to non-preferred providers for covered services rendered at hospitals that are preferred providers. The purpose of such a study is to propose a methodology for determining the “final allowed amount” which should be used in the calculation for the minimum payment to an on-call physician. This study must be completed and a report made to the Governor and General Assembly by December 1, 2010.

Another study will determine the benefits and costs of the new law. Included within this study is the impact on an insurer’s ability to maintain an adequate network of primary and specialty doctors. This study will rely on “baseline parameters” developed by the Maryland Health Care Commission (MHCC) by January 1, 2011, with an interim report by the MHCC by July 1, 2012 and a final report by October 1, 2014.

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