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Surprise Billing Legislation in Michigan

Overview

In line with national developments, Michigan has been working on and recently passed Surprise Billing legislation in the state senate. The initial legislation was first introduced in the spring of 2019, and, since then, Michigan legislators have worked diligently on coming up with a relatively comprehensive package aimed at addressing these concerns. At its core, Surprise Billing legislation aims to eliminate surprise bills, or balance billing, when a patient receives out-of-network (OON) care and must pay the difference between the insurance-approved rates and the rate they are charged for their service.

The most recent development in Michigan's legislation comes in the form of a bill package ([SBs 0570, 0571, 0572, and 0573](#)) proposed by Senators Lana Theis (R-Brighton) and Curtis Hertel Jr. (D-East Lansing), with substitutes introduced by Senator Ken Horn (R-Frankenmuth) for SBs 0570 and 0572. This package was described by the Executive Director of the Michigan Association of Health Plans (MAHP), Dominick Pallone, as "one of the most comprehensive packages passed to date" directed at stymieing surprise billing. The senate-approved package comes as a counter-offer of sorts to the initial legislation passed by Michigan's House of Representatives, which proposed banning surprise billing outright and capping reimbursement rates at 125% of Medicare rates for providers—a proposal that was broadly considered excessive and harmful by physician groups and advocates.

The Breakdown

SB 0570

This portion of the bill package sets the insurance reimbursement rates at 150% of the Medicare rate or the average in-network rates accepted for that patient's health plan in that region, whichever is greater. According to the bill, it cannot be enacted unless SB 0572 is also enacted into law.

SB 0572

This bill requires providers to obtain the patient's signature verifying they were made aware of the extra cost they may be responsible for if they receive care from an OON provider. This signature must be obtained either at the time of scheduling or 21 days in advance of receiving the non-emergency care, whichever is earlier.

SB 0571

This section of the bill package empowers the Michigan Department of Finance and Insurance Services to investigate any allegations of wrongdoing or failure of compliance on the part of providers after the legislation is passed. In addition to establishing the various forms of non-compliance on the part of providers, this bill also requires the department to conduct an annual survey on surprise billing beginning in 2022, and it outlines the appeals process a provider may go through if they wish to seek arbitration and argue certain rates have been miscalculated. This bill can only be passed if SB 0573 is also passed.



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SB 0573

This bill establishes the penalties which may be bestowed when non-compliance with the law is discovered. Depending on the severity and form of non-compliance, the department may take action ranging from restitution, to fines, to suspension, to permanent revocation. For specifics on these penalties and their application, please contact your Practice Manager.

Final Thoughts

Now that the bill package has successfully passed the Michigan Senate, it must pass in the House before it is handed off to Governor Gretchen Whitmer. It is possible that this could happen as soon as November. While many consider this bill package to be one of the most comprehensive and potentially effective proposed yet, perhaps even being a model for national legislative action, others have suggested that it goes too far in giving power to insurance providers with the likely result of driving down physician rates.

As always, we encourage you to stay abreast of the situation and monitor how this legislation may impact your practice. For our part, APS will continue to monitor any progress and developments that may affect your practice's compliance and reimbursement. If you have further questions on your state's regulation on Surprise billing, please contact your Practice Manager.