Senate Working Group Reaches Consensus on Surprise Medical Billing Legislation

May 17, 2019

A bipartisan Senate working group comprised of Senators Bill Cassidy (R-LA), Michael Bennet (D-CO), Todd Young (R-IN), Maggie Hassan (D-NH), Lisa Murkowski (D-AK) and Tom Carper (D-DE) released a summary of its surprise medical billing legislation yesterday. Additional cosponsors include: Senators Dan Sullivan (R-AK), Sherrod Brown (D-OH), Kevin Cramer (R-ND), Ben Cardin (D-MD), John Kennedy (R-LA) and Bob Casey (D-PA).

Click here for the section by section summary and here for the press release. We'll forward the text when it's available. Key provisions are outlined below.

The Senate HELP Committee may combine surprise medical billing legislation with other health care cost cutting legislation as early as next month. Chairman Lamar Alexander (R-TN) has said he wants to get a bill to the President in July.

The timing of course depends upon what can pass in the House. Earlier this week we forwarded a summary of the discussion draft released by the Energy and Commerce Committee leaders which does not include dispute resolution.

Next Tuesday, the House Ways and Means Health Subcommittee is holding a hearing on surprise medical billing. Witnesses include representatives from the American Hospital Association, the American Medical Association and America's Health Insurance Plans. It is possible that the Ways and Means Committee will offer its own surprise medical billing legislation.

We'll keep you informed as we learn more about how these bills may move.

Key Provisions:

Section 2- Prohibits surprise balance billing for patients in three scenarios:

- Emergency care at an out-of-network facility or by an out-of-network provider;
- Elective health care services provided by out-of-network providers at in-network facilities; and

- Following emergency care at an out-of-network facility when the patient is not able to travel without medical transport

Patients are only liable for the in-network cost-sharing; patient-cost sharing for these services shall accrue toward the in-network deductible and out-of-pocket maximum.

Payment

Where the ban on surprise billing applies, providers will automatically be paid the median in-network rate. Both the provider and the plan would be permitted, within 30 days, to initiate an independent dispute resolution (IDR) process. Under this process, each party submits one final offer. The non-prevailing party pays the costs of the IDR. Section 2 of the summary provides more details on the process, where the decisions are final and are to be made by the IDR entity within 30 days.

Transparency

Section 5 requires providers/plans to tell patients/enrollees within 48 hours of a request, the expected cost sharing for specific health care services, including services reasonably expected to be provided in conjunction with the main service.

Section 7 requires hospitals to:

- Disclose any financial relationship or profit-sharing agreement with a physician group on its website and in printed materials; and
- Include ancillary services provided by individuals, such as phlebotomists, laboratory technicians and echocardiogram technicians, in the hospital bill sent to patients

HHS would be required to conduct a study on the feasibility of hospitals and providers giving patients a single, unified bill for all services provided within an episode of care.

Applicability

The procedures and methodology outlined in the Senate bill would apply to all self-funded plans and Federal Employees Health Benefits Program plans, and to all fully-insured plans in states that have not enacted surprise billing protections. States are free to choose their own methodology to determine provider compensation for surprise medical bills so long as the patient protections in Section 2 are included.

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