

SENATE BILL REPORT

SB 6532

As of January 21, 2010

Title: An act relating to holding consumers harmless for balance bills generated when emergency services are rendered by nonparticipating providers in participating hospitals.

Brief Description: Concerning payment for emergency services.

Sponsors: Senators Pflug and Keiser.

Brief History:

Committee Activity: Health & Long-Term Care: 1/21/10.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Mich'l Needham (786-7442)

Background: Current insurance law defines emergency services as those covered health care services medically necessary to evaluate and treat an emergency provided in a hospital emergency department. Current law allows health carriers to impose differential cost sharing for emergency services rendered by a non-participating provider that should not exceed \$50. However, the law does not prevent the non-participating provider from billing the patient beyond the amount paid by the health carrier. Health carrier contracts with contracting or participating providers typically prevent any balance billing of the patient for covered services, but there is no contract in place with non-participating providers. Patients that receive care in emergency departments of their participating hospital are finding that services may be rendered by non-participating providers, which then generate surprising bills.

Medicare prohibits participating providers from balance billing, and limits the balance billing for non-participating providers to no more than 9.25 percent of the Medicare fee schedule received by participating physicians. At least 11 states have some language that attempts to prevent balance billing for some patients and providers, through a variety of approaches.

Summary of Bill: The insurance definition of emergency services is modified to include covered health care services medically necessary to evaluate and treat an emergency provided in a hospital. Health carriers may continue to impose applicable copayments, coinsurance and deductibles, but the reference to the \$50 differential for services rendered by a non-participating provider is removed. Language limiting differential cost-sharing for emergency services provided at non-participating hospitals is removed.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

On or after January 1, 2011, health carriers and programs offered through the Health Care Authority must ensure the benefit level is the same for covered emergency services provided in a participating hospital, whether provided by a participating provider or non-participating provider. Services must be covered at no greater cost to the covered person. Any attempt by a provider to balance bill the patient constitutes unprofessional conduct under the Uniform Disciplinary Act.

Managed care plans that contract with Medicaid must pay the claim for covered emergency services by a non-participating provider in a participating hospital at a rate no greater than the Medicaid fee-for-service rate for comparable services.

Appropriation: None.

Fiscal Note: Requested on January 17, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Consumers are getting surprised with bills for emergency services. Hospitals have contracted out so many services it is not possible to know who is contracted with the insurance for every service that is provided. In an emergency situation patients do not have a choice of providers and should not be expected to pick and choose services based on whether they may be covered as participating providers. No one is speaking up for the consumer - we need to be focused on protecting the consumer. A number of other states have prevented balance billing of the patient.

CON: We passed the emergency law that went on the books in 1997 and it provides good language to clarify that emergency services should be provided like in-network benefits. The prudent layperson language added in 1997 took care of most of the emergency service billing problems. The emergency system is not working now and needs to be fixed, but this bill is not the right fix. This could have severe impacts on emergency departments and trauma care. It is already hard enough to get coverage by emergency providers and on-call specialists, and this will just make it harder. Most emergency physician groups are independent practices not employees of the hospital, and they are not able to share costs across the hospital to cover the losses of uninsured patients and high malpractice insurance and other business expenses. The overall cost is escalating and charges for emergency services are increasing faster than other providers. This approach just adds to the cost structure and essentially requires the plans to pay billed charges. There will be no incentive to contract for fair rates and no cost controls for billing.

Persons Testifying: PRO: Senator Pflug, prime sponsor.

CON: Deborah Senn, Dr. Deb Harper, Washington State Medical Association; John Milne, Steve Marshall, Washington Chapter of American College of Emergency Physicians; Lisa Thatcher, Washington State Hospital Association; Dave Fitzgerald, Proliance Surgeons; Joe Gifford, Regence Blue Shield; Bill Akers, Premera Blue Cross.