
HOUSE BILL 1561

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Cody, Jenkins, and Kenney

Read first time 01/25/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to payment for critical services rendered by
2 out-of-network providers in in-network hospitals; adding a new section
3 to chapter 48.43 RCW; and adding a new section to chapter 41.05 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW
6 to read as follows:

7 (1)(a) For covered critical services rendered to a covered person
8 by an out-of-network health care provider in an in-network hospital on
9 or after the effective date of this section, a health carrier shall pay
10 the claim submitted by the health care provider at the rate that must
11 be paid to an out-of-network provider for emergency services under 45
12 C.F.R. 147.138(b)(3) (2010).

13 (b) The insurance commissioner may, by rule, change the amount that
14 must be paid under (a) of this subsection based on changes made to 45
15 C.F.R. 147.138(b)(3) (2010).

16 (c) The legislature encourages employer-sponsored self-funded
17 health plans and third-party administrators of employer-sponsored self-
18 funded health plans to voluntarily comply with subsection (1) of this

1 section under circumstances where they are not required to do so by
2 federal law.

3 (2)(a) A health carrier, an employer-sponsored self-funded health
4 plan, or a third-party administrator of an employer-sponsored self-
5 funded health plan, shall pay an out-of-network health care provider
6 directly for critical services, regardless of whether the amount to be
7 paid is determined under subsection (1) of this section or, in the case
8 of an employer-sponsored self-funded health plan, by the terms and
9 conditions of the plan or applicable federal law.

10 (b) The amount paid to the out-of-network health care provider
11 under this section, plus any applicable copayment, coinsurance, or
12 deductible payable by the person who received the critical services,
13 constitute payment in full for the critical services rendered by the
14 out-of-network health care provider. The person who received the
15 critical services is not responsible for any amount in excess of
16 applicable copayments, coinsurance, or deductibles. Any attempt on the
17 part of a provider to recover excess funds from the person constitutes
18 a violation of RCW 18.130.180(7).

19 (3) For purposes of this section:

20 (a) "Critical services" means:

- 21 (i) Emergency services as defined in RCW 48.43.005; and
- 22 (ii) Services provided outside a hospital's emergency department
23 that are necessary to stabilize a person who received emergency
24 services in the hospital's emergency department.

25 (b) "Stabilize" means that no material deterioration of the
26 emergency medical condition is likely, within reasonable medical
27 probability, to result from or occur during the transfer of the person
28 from a facility.

29 (4) This section does not apply to payments made by carriers for
30 critical services under state purchased health care programs designed
31 to serve low-income populations.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
33 to read as follows:

34 (1)(a) For covered critical services rendered to a covered person
35 by an out-of-network health care provider in an in-network hospital on
36 or after the effective date of this section, a health benefit plan
37 offered to public employees and their covered dependents shall pay the

1 claim submitted by the health care provider at the rate that must be
2 paid to an out-of-network provider for emergency services under 45
3 C.F.R. Sec. 147.138(b)(3) (2010).

4 (b) The insurance commissioner may, by rule, change the amount that
5 must be paid under (a) of this subsection based on changes made to 45
6 C.F.R. Sec. 147.138(b)(3) (2010).

7 (2)(a) A health benefit plan offered to public employees and their
8 covered dependents shall pay an out-of-network health care provider
9 directly for critical services.

10 (b) The amount paid to the out-of-network health care provider
11 under this subsection, plus any applicable copayment, coinsurance, or
12 deductible payable by the person who received the critical services,
13 constitutes payment in full for the critical services rendered by the
14 out-of-network health care provider. The person who received the
15 critical services is not responsible for any amount in excess of
16 applicable copayments, coinsurance, or deductibles. Any attempt on the
17 part of a provider to recover excess funds from the person constitutes
18 a violation of RCW 18.130.180(7).

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- 21 (i) Emergency services as defined in RCW 48.43.005; and
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23 that are necessary to stabilize a person who received emergency
24 services in the hospital's emergency department.

25 (b) "Stabilize" means that no material deterioration of the
26 emergency medical condition is likely, within reasonable medical
27 probability, to result from or occur during the transfer of the person
28 from a facility.

29 NEW SECTION. **Sec. 3.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

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