

FIRST REGULAR SESSION

SENATE BILL NO. 260

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time February 4, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1396S.01I

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to reimbursement of nonparticipating facility-based providers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto one new
2 section, to be known as section 376.378, to read as follows:

**376.378. 1. For purposes of this section, the following terms
2 shall mean:**

3 (1) "Enrollee", shall have the same meaning ascribed to it as in
4 section 376.1350;

5 (2) "Facility", shall have the same meaning ascribed to it as in
6 section 376.1350;

7 (3) "Facility-based provider", a health care professional or health
8 care provider who provides health care services to enrollees in a
9 participating facility;

10 (4) "Health benefit plan", shall have the same meaning ascribed
11 to it as in section 376.1350;

12 (5) "Health care professional", shall have the same meaning
13 ascribed to it as in section 376.1350;

14 (6) "Health care provider", shall have the same meaning ascribed
15 to it as in section 376.1350;

16 (7) "Health care service", shall have the same meaning ascribed
17 to it as in section 376.1350;

18 (8) "Health carrier", shall have the same meaning ascribed to it
19 as in section 376.1350;

20 (9) "Participating provider", shall have the same meaning
21 ascribed to in section 376.1350, and for purposes of this section shall

22 also include the term "participating facility" and "participating facility-
23 based provider".

24 2. When an enrollee utilizes a participating facility and, due to
25 any reason, in network health care services are provided by a
26 nonparticipating facility-based provider, the health carrier or health
27 benefit plan shall ensure that the enrollee shall incur no greater
28 out-of-pocket costs than the enrollee would have incurred with a
29 participating facility-based provider for covered services.

30 3. Notwithstanding any other provision of the law to the
31 contrary, any benefits an enrollee receives for health care services
32 under the situation described in subsection 2 of this section shall be
33 assigned to the nonparticipating facility-based provider if an enrollee
34 agrees to the assignment in writing. The health carrier or health
35 benefit plan shall provide the nonparticipating facility-based provider
36 with a written explanation of benefits that specifies the proposed
37 reimbursement and the applicable deductible, copayment, or
38 coinsurance amounts owed by the enrollee. The health carrier or
39 health benefit plan shall pay any reimbursement directly to the
40 nonparticipating facility-based provider. The nonparticipating
41 facility-based provider shall not bill the enrollee, except for applicable
42 deductible, copayment, or coinsurance amounts that would apply if the
43 enrollee utilized a participating facility-based provider for covered
44 health care services. If an enrollee specifically rejects assignment
45 under this section in writing to the nonparticipating facility-based
46 provider, then the nonparticipating facility-based provider may bill the
47 enrollee for the services rendered.

48 4. For bills assigned under subsection 3 of this section, the
49 nonparticipating facility-based provider may bill the health carrier or
50 health benefit plan for the health care services rendered, and the
51 health carrier or health benefit plan may pay the billed amount or
52 attempt to negotiate reimbursement with the nonparticipating
53 facility-based provider. If attempts to negotiate reimbursement for
54 health care services provided by a nonparticipating facility-based
55 provider do not result in a resolution of the payment dispute within
56 thirty days after receipt of written explanation of benefits by the
57 nonparticipating facility-based provider, then a health carrier or health
58 benefit plan or nonparticipating facility-based provider may initiate

59 binding arbitration to determine payment for services provided on a
60 per bill basis. The party requesting arbitration shall notify the other
61 party arbitration has been initiated and state its final offer before
62 arbitration. In response to this notice, the nonrequesting party shall
63 inform the requesting party of its final offer before the arbitration
64 occurs. Arbitration shall be initiated by filing a request with the
65 department of insurance, financial institutions and professional
66 registration.

67 5. The department of insurance, financial institutions and
68 professional registration shall publish a list of approved arbitrators or
69 entities that shall provide binding arbitration described in subsection
70 4 of this section. These arbitrators shall be American Arbitration
71 Association or American Health Lawyers Association trained
72 arbitrators. Both parties shall agree on an arbitrator from the
73 department's list of arbitrators. If no agreement can be reached, then
74 a list of five arbitrators shall be provided by the department. From the
75 list of five arbitrators, the health carrier may veto two arbitrators and
76 the nonparticipating facility-based provider may veto two
77 arbitrators. The remaining arbitrator shall be the chosen
78 arbitrator. This arbitration shall consist of a review of the written
79 submissions by both parties. Binding arbitration shall provide for a
80 written decision within forty-five days after the request is filed with
81 the department. Both parties shall be bound by the arbitrator's
82 decision. The arbitrator's expenses and fees, together with other
83 expenses, not including attorney's fees, incurred in the conduct of the
84 arbitration, shall be paid as provided in the decision.

85 6. This section shall not apply to an enrollee who willfully
86 chooses to access a nonparticipating facility-based provider for health
87 care services available through the health carrier's or health benefit
88 plan's network of participating providers. In these circumstances, the
89 contractual requirements for nonparticipating facility-based provider
90 reimbursements shall apply.

91 7. The provisions of section 376.383 shall not apply during the
92 pendency of a decision under subsection 4 of this section. Any interest
93 required to be paid a nonparticipating facility-based provider under
94 section 376.383 shall not accrue until after thirty days of an arbitrator's
95 decision as provided in subsection 5 of this section.

96 8. The director shall promulgate rules and regulations to
97 administer, enforce, and interpret the provisions of this section. Any
98 rule or portion of a rule, as that term is defined in section 536.010 that
99 is created under the authority delegated in this section shall become
100 effective only if it complies with and is subject to all of the provisions
101 of chapter 536, and, if applicable, section 536.028. This section and
102 chapter 536 are nonseverable and if any of the powers vested with the
103 general assembly pursuant to chapter 536, to review, to delay the
104 effective date, or to disapprove and annul a rule are subsequently held
105 unconstitutional, then the grant of rulemaking authority and any rule
106 proposed or adopted after August 28, 2013, shall be invalid and void.

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Bill

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