

1 SB88
2 164501-3
3 By Senator Dial
4 RFD: Health and Human Services
5 First Read: 03-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to health care contracts; to add Section
12 27-1-17.1 to Title 27, Chapter 1, Code of Alabama 1975, to
13 provide that any contract issued, amended, or renewed on or
14 after July 1, 2015, between a health insurer or its contracted
15 vendor or a regional care organization and a health care
16 provider for the provision of health care services to a plan
17 enrollee shall not restrict payments to only credit card
18 payments; to provide that prior to initiating or changing
19 payments to a provider using electronic funds transfer
20 payments, to only credit card or virtual credit card payments,
21 a health insurer or its contracted vendor or a regional care
22 organization must meet certain requirements to notify the
23 health care provider of all fees associated with a particular
24 payment method, provide clear instructions to health care
25 provider as to how to opt out of the payment method at any
26 time following the initial agreement to this payment method,
27 and obtain written consent from the health care provider; and

1 to provide that any clause in a contract in violation of the
2 provisions of this section shall be void.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 27-1-17.1 is added to Title 27,
5 Chapter 1, Code of Alabama 1975, to read as follows:

6 §27-1-17.1.

7 (a) This section shall be known as and may be cited
8 as the Transparency in Health Insurer Payment Transactions
9 Act.

10 (b) The Legislature finds and declares the
11 following:

12 (1) Despite the potential benefits associated with
13 electronic funds transfer (EFT) payments, many health care
14 providers are being subjected to fees associated with
15 electronic payment that essentially reduce their contracted
16 fee payment amounts.

17 (2) Some health care providers are being subjected
18 to additional percentage-based fees for Health Insurance
19 Portability and Accountability Act (HIPPA)-standard automated
20 clearinghouse (ACH) EFT payments when the only fee that should
21 be assessed with ACH EFT payments is a nominal banking fee.

22 (3) In recent years, many health insurers have
23 started paying health care providers through payer-issued
24 credit cards, often referred to as virtual or online credit
25 cards, thereby shifting the costs of transferring money
26 electronically from the health insurer to the health care
27 provider.

1 (4) Although a valid electronic alternative to paper
2 checks, the use of credit cards for payment requires health
3 care providers to manually enter payments into the providers'
4 own credit card processing systems.

5 (5) Processing through a credit card system often
6 comes at a significant cost to health care providers, as
7 payments are subject to interchange and transaction fees,
8 thereby reducing the agreed upon contractual fee amount for
9 the provided health care services.

10 (6) Health care providers are often unaware of these
11 high fees when accepting credit card payments.

12 (7) Health plan credit card payments do not offer
13 significant risk reduction for health care providers, but
14 nevertheless carry increased processing charges, unlike
15 patient credit card payments.

16 (8) Health insurers often receive cash-back
17 incentives from credit card companies for such transactions.

18 (c) As used in this section, the following terms
19 shall have the following meanings:

20 (1) CREDIT CARD PAYMENTS. A type of electronic funds
21 transfer in which the health insurer or its contracted vendor
22 or a regional care organization sends credit card payment
23 information and instructions to the health care provider, who
24 then processes the payments using standard credit card
25 technology. Credit card payments can include virtual or online
26 credit card payments, whereby no physical credit card is

1 presented to the health care provider and the single-use
2 credit card expires upon payment processing.

3 (2) HEALTH CARE PROVIDER. For purposes of this
4 section, the term "health care provider" means: A physician as
5 defined under Section 34-24-50.1; other licensed health care
6 professionals as defined in Title 34; a hospital as defined in
7 Section 22-21-20; and a health care facility, or other
8 provider who or that is accredited, licensed, or certified and
9 who or that is performing within the scope of that
10 accreditation, license, or certification.

11 (3) HEALTH INSURER. An entity or person that offers
12 or administers a health insurance plan, coverage, or policy in
13 this state, or contracts with health care providers to furnish
14 specified health care services to enrollees covered under a
15 health insurance plan or policy.

16 Nothing in this act shall apply to corporations
17 organized pursuant to Article 6 of Chapter 20 of Title 10A,
18 commencing at Section 10A-20-6.01, Code of Alabama 1975, or to
19 policies, plans, or contracts entered, issued or administered
20 by such corporations.

21 (4) HEALTH INSURANCE PLAN. Any hospital and medical
22 expense incurred policy, health maintenance organization
23 subscriber contract, or any other health care plan, policy,
24 coverage, or arrangement that pays for or furnishes medical or
25 health care services, whether by insurance or otherwise,
26 offered in this state. The term does not include a regional
27 care organization. Nothing in this act shall apply to any

1 policies, plans, or contracts entered, issued or administered
2 by corporations organized pursuant to Article 6 of Chapter 20
3 of Title 10A, commencing at Section 10A-20-6.01, Code of
4 Alabama 1975.

5 (5) NOMINAL. A monetary amount equal to or less than
6 the bank fee associated with HIPPA-standard ACH electronic
7 funds transfer (EFT).

8 (6) REGIONAL CARE ORGANIZATION. An organization as
9 defined in subdivision (9) of Section 22-6-150.

10 (d) A contract issued, amended, or renewed on or
11 after July 1, 2015, between a health insurer or its contracted
12 vendor or a regional care organization and a health care
13 provider for the provision of health care services to a plan
14 enrollee shall not contain restrictions on methods of payment
15 from the health insurer or vendor or a regional care
16 organization to the health care provider in which the only
17 acceptable payment method is a credit card payment.

18 (e) Prior to initiating or changing payments to a
19 provider using electronic funds transfer payments, including
20 virtual credit card payments, a health insurer or its
21 contracted vendor or a regional care organization must:

22 (1) Notify the provider of all fees associated with
23 a particular payment method;

24 (2) Provide clear instructions to the provider as to
25 how to opt out of the payment method at any time following the
26 initial agreement to this payment method; and

1 (3) Following completion of subdivisions (1) and
2 (2), obtain written consent from the health care provider for
3 the payment method.

4 (f) Health care provider consent in accordance with
5 subdivision (3) of subsection (e) need not be obtained prior
6 to each subsequent transaction, but is required for each new
7 type of electronic fund transfer payment initiated with a
8 health care provider.

9 (g) A health insurer or its contracted vendor or a
10 regional care organization shall not impose any interchange,
11 transaction, or processing fees, or other charges, on the
12 health care provider beyond a nominal amount for receiving
13 HIPPA-standard ACH electronic funds transfer (EFT) payments.

14 (e) The provisions of this section cannot be waived
15 by contract, and any contractual clause in conflict with the
16 provisions of this section or that purport to waive any
17 requirements of this section are void.

18 Section 2. If any provision of this act is held by a
19 court to be invalid, such invalidity shall not affect the
20 remaining provisions of this act, and to this end the
21 provisions of this act are declared severable.

22 Section 3. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Health and Human Services..... 03-MAR-15

Read for the second time and placed on the calen-
dar..... 05-MAR-15

Read for the third time and passed as amended 14-APR-15

Yeas 34
Nays 0

Patrick Harris
Secretary