# PROPOSED AMENDMENT
## SB 189 # 7

DIGEST

Facility based nonparticipating providers. Provides that, subject to certain limitations, a health carrier may assess an administrative fee or penalty not to exceed 10% of the allowed amount of the facility's claim against a facility for the use of an out of network practitioner in a facility based setting. Provides that if a health carrier assesses an administrative fee or penalty in violation of the limitations, the health carrier commits an unfair and deceptive act or practice in the business of insurance. Requires an out of network provider that submits a request for independent dispute resolution to provide notice to the health provider facility not later than 24 hours after submitting the request. Makes corresponding changes.

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Page 1, delete lines 1 through 17.

Page 2, delete line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-45-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) This section applies to facility based services that are subject to this chapter.**

**(b) As used in this section, "health carrier" has the meaning set forth in IC 27-1-36.8-2.**

**(c) Subject to the limitations set forth in subsections (d) through (g), a health carrier may assess an administrative fee or penalty not to exceed ten percent (10%) of the allowed amount of the facility's claim against a facility for the use of an out of network practitioner in a facility based setting.**

**(d) A health carrier may not assess an administrative fee or penalty under subsection (c) if:**

**(1) the services are emergency services;**

**(2) the facility is:**

**(A) a rural hospital (as defined in 410 IAC 15-1.1-19.5);**

**(B) a critical access hospital that meets the criteria under 42 CFR 485.601 through 42 CFR 485.647; or**

**(C) an acute care hospital that is at or above the seventy-fifth percentile of the proportion of Medicare beneficiaries who are dually eligible for Medicare and**

**Medicaid, as determined by the Centers for Medicare and Medicaid Services;**

**(3) an in network practitioner was not available to furnish the service within a distance of not more than twenty-five (25) miles from a covered individual's residence;**

**(4) the health carrier granted prior authorization for the use of an out of network practitioner in the facility based setting; or**

**(5) the health carrier has not complied with subsections (e) through (g).**

**(e) Before assessing an administrative fee or penalty under this section, a health carrier shall do the following:**

**(1) Provide written notice to the facility that includes the following:**

**(A) A description of the conduct that is the basis for the proposed fee or penalty, including applicable dates of service.**

**(B) Identification of each out of network practitioner involved, including the practitioner's name and national provider identifier, if known.**

**(C) The amount of the proposed fee or penalty and the methodology used to calculate the amount.**

**(D) A description of the actions that will constitute a cure.**

**(E) The name and contact information of a representative authorized to negotiate on behalf of the health carrier.**

**(2) Deliver the notice by electronic mail to an address designated by the health provider facility and by certified mail.**

**(3) Allow a sixty (60) day cure period that begins on the date the health provider facility receives the notice.**

**(f) A health carrier may not assess an administrative fee or penalty during the cure period related to conduct described in the notice under subsection (e).**

**(g) For purposes of subsections (e) and (f), a cure is satisfied when:**

**(1) the health carrier and the facility engage in good faith efforts to negotiate a resolution, including:**

**(A) at least one (1) conference between authorized representatives; and**

**(B) a reasonable exchange of information necessary to**

**evaluate and address the conduct described in the notice under subsection (e); and**

**(2) within the cure period, the health carrier and facility agree upon a resolution to the conduct described in the notice under subsection (e).**

**(h) If a health carrier assesses an administrative fee or penalty under subsection (c) in violation of the limitations set forth in subsections (d) through (g), the health carrier commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4 and is subject to the penalties and procedures set forth in IC 27-4-1.**

**(i) An out of network provider that submits a request for independent dispute resolution under 42 U.S.C. 300gg-111 shall provide notice to the health provider facility not later than twenty-four (24) hours after submitting the request.**

**(j) The notice required under subsection (i) must include the following:**

**(1) The date of service.**

**(2) The facility at which the service was provided.**

**(3) The out of network practitioner's name and national provider identifier.**

**(4) The service codes submitted to independent dispute resolution.**

**(5) The billed charges.**

**(6) The qualifying payment amount.**

**(7) The date the independent dispute resolution request was submitted.**

**(8) The independent dispute resolution entity selected or proposed.**

**(9) A written attestation, signed by the out of network practitioner, that the independent dispute resolution request:**

**(A) complies with the eligibility procedural requirements of 42 U.S.C. 300gg-111 and 45 CFR Part 149, Subpart F;**

**(B) follows completion of the required open negotiation period;**

**(C) is not filed outside applicable federal time limits;**

**(D) does not include items or services that are excluded, improperly bundled, or otherwise ineligible for federal independent dispute resolution; and**

**(E) is not barred under federal law or regulation.**".

Page 8, line 40, delete "IC 27-1-37-11" and insert "**IC 27-1-45-8.5**".

Page 8, line 41, delete "health provider facility or a provider" and insert "**facility**".

Page 9, line 1, delete "provider." and insert "**practitioner.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 189 as printed January 23, 2026.)