
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 2157 (Wood) - Health care coverage: independent dispute resolution process

Version: February 10, 2020

Policy Vote: HEALTH 8 - 0

Urgency: No

Mandate: No

Hearing Date: August 13, 2020

Consultant: Samantha Lui

Bill Summary: Assembly Bill 2157 specifies additional processes the Department of Managed Health Care and Department of Insurance must include as part of an independent dispute resolution process (IDRP), which seeks to resolve disputes about claims payments between a provider and a plan or insurer.

Fiscal Impact:

- Department of Insurance (CDI). The department reports one-time costs of \$120,000 (Insurance Fund) for 0.67 FTE to promulgate regulations (approximately 1,191 hours). However, staff notes this figure may be lower to the extent regulations do not need to be promulgated, but need only to be analyzed, in a similar approach as DMHC, and adjusted in a minor way.
- Department of Managed Health Care (DMHC). The department's Office of Legal Services (OLS) anticipates one-time \$33,000 (Managed Care Fund) and 0.2 PY in FY 2020-21 to clarify the bill's requirements with the existing process.

Background: Under current law, health plans are regulated by the DMHC, and health insurers ARE regulated by the CDI. Health plans and insurers contract with a wide range of primary care and specialty care providers, as well as facilities, such as hospitals and pharmacies. Enrollees may have a copayment or coinsurance when receiving care, as well as meet a deductible before coverage begins. Typically, if an enrollee receives care from a provider that is not in his or her health insurance or health plan network, the enrollee will have a higher copayment or coinsurance requirement.

There are situations when an enrollee unknowingly receives care from an out-of-network provider. For example, when a patient receives care at an in-network facility but is treated by an out-of-network provider, such as an anesthesiologist or radiologist, they may receive a "surprise" balance bill, because most consumers cannot distinguish or control when an out-of-network provider is providing services at an in-network facility. AB 72 (Bonta, Chapter 492, Statutes of 2016) prohibits providers from surprise balance billing consumers, and also created a default reimbursement rate (125% of Medicare or the average contracted rate for that region, whichever is greater) for out-of-network or non-contracted providers to resolve payment disputes with health plans/insurers and not involve consumers. AB 72 does not apply to emergency services and care, dental providers, or to Medi-Cal managed care plans.

Both CDI and DMHC launched the IDRP in 2017 as a mechanism for non-contracted providers, health plans, and health insurers to dispute the default reimbursement amount. The AB 72 IDRP is conducted electronically through a web-based portal,

managed by MAXIMUS Federal Services, Inc., (MAXIMUS), which also serves as the independent organization for the IDRPs.

Proposed Law: Existing law requires DMHC and CDI to establish uniform written procedures for the submission, receipt, processing, and resolution of claim payment disputes. This bill would require these existing procedures include a process for each party to submit into evidence information that will be kept confidential from the other party, in order to preserve the confidentiality of the source contract.

As part of the dispute resolution process, existing law requires the independent organization to base its decision regarding the appropriate reimbursement on relevant information. This bill would require the independent organization to conduct a de novo review and base its decision on information and documents timely submitted into evidence by parties to the dispute. In addition, the bill would require the independent organization to assign reviewers to each case based on their relevant education, background, and medical claims payment and clinical experience.

Staff Comments: According to the Senate Health Committee analysis: According to DMHC's annual report, in 2019, DMHC received 32 IDRPs applications. Of those, 22 completed the process and a determination letter was issued. According to DMHC, in 2019, one determination letter awarded additional reimbursement to the provider and 21 determination letters found that the payor's reimbursement was appropriate. In March 2020, DMHC's IDRPs guidelines and submission portal were updated to allow parties to submit information about contracted rate information confidentially (visible only to DMHC and the external reviewer). DMHC has observed that majority of the submissions are from anesthesiologists. According to CDI, there have been no submissions to IDRPs.

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