

Bill No. CS for CS for SB 1202

Amendment No. ____ Barcode 604654

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 29, line 26, through
page 75, line 24, delete those lines

and insert:

Section 8. Section 408.7058, Florida Statutes, is
created to read:

408.7058 Statewide health care practitioner and
personal injury protection insurer claim dispute resolution
program.--

(1) As used in this section:

(a) "Agency" means the Agency for Health Care
Administration.

(b) "Resolution organization" means a qualified
independent third-party claim dispute resolution entity
selected by and contracted with the Agency for Health Care
Administration.

(c) "Health care practitioner" means a health care
practitioner defined in s. 456.001(4).

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1 (d) "Claim" means a claim for payment for services
2 submitted under s. 627.736(5).

3 (e) "Claim dispute" means a dispute between a health
4 care practitioner and an insurer as to the proper coding of a
5 charge submitted on a claim under s. 627.736(5) by a health
6 care practitioner, or as to the reasonableness of the amount
7 charged by the health care practitioner.

8 (f) "Insurer" means an insurer providing benefits
9 under s. 627.736.

10 (2)(a) The agency shall establish a program by January
11 1, 2004, to provide assistance to health care practitioners
12 and insurers for resolution of claim disputes that are not
13 resolved by the health care practitioner and the insurer. The
14 agency shall contract with a resolution organization to timely
15 review and consider claim disputes submitted by health care
16 practitioners and insurers and recommend to the agency an
17 appropriate resolution of those disputes.

18 (b) The resolution organization shall review claim
19 disputes filed by health care practitioners and insurers
20 pursuant to this section when a notice of participation is
21 submitted pursuant to subsection (3), unless a demand letter
22 has been submitted to the insurer under s. 627.736(11) or a
23 suit has been filed on the claim against the insurer relating
24 to the disputed claim.

25 (3) Resolutions by the resolution organization shall
26 be initiated as follows:

27 (a) A health care practitioner may initiate a dispute
28 resolution by submitting a notice of dispute within 10 days
29 after receipt of a payment under s. 627.736(5)(b), which
30 payment is less than the amount of the charge submitted on the
31 claim. The notice of dispute shall be submitted to both the

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1 agency and the insurer by United States certified mail or
2 registered mail, return receipt requested. The health care
3 practitioner shall include with the notice of dispute any
4 documentation that the health care practitioner wishes the
5 resolution organization to consider which demonstrates that
6 the charge or charges submitted on the claim are reasonable.
7 The insurer shall have 10 days after the date of receipt of
8 the notice of dispute within which to submit both to the
9 resolution organization and the health care practitioner by
10 United States certified mail or registered mail, return
11 receipt requested, a notice of participation in the dispute
12 resolution and any documentation that the insurer wishes the
13 resolution organization to consider which demonstrates that
14 the charge or charges submitted on the claim are not
15 reasonable.

16 (b) An insurer may initiate a dispute resolution prior
17 to the claim being overdue, including any additional time the
18 insurer has to pay the claim pursuant to paragraph (4)(b), by
19 submitting a notice of dispute together with a payment to the
20 health care practitioner under s. 627.736(5)(b) of the amount
21 the insurer contends is the highest proper reasonable charge
22 for the claim. The notice of dispute shall be submitted to
23 both the agency and the health care practitioner by United
24 States certified mail or registered mail, return receipt
25 requested. The insurer shall include with the notice of
26 dispute any documentation that the insurer wishes the
27 resolution organization to consider which demonstrates that
28 the charge or charges submitted on the claim are not
29 reasonable. The health care practitioner shall have 10 days
30 after the date of receipt of the notice of dispute within
31 which to submit both to the resolution organization and the

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1 insurer by United States certified mail or registered mail,
2 return receipt requested, a notice of participation in the
3 dispute resolution and any documentation that the health care
4 practitioner wishes the resolution organization to consider
5 which demonstrates that the charge or charges submitted on the
6 claim are reasonable.

7 (c) An insurer or health care practitioner may refuse
8 to participate in a dispute resolution by not submitting a
9 notice of participation in the dispute resolution pursuant to
10 paragraph (a) or (b). An insurer or health care practitioner
11 shall not be liable for the review costs, as established
12 pursuant to subsection (8), of the dispute resolution
13 conducted pursuant to this section unless it has participated
14 in the dispute resolution pursuant to this subsection and is
15 liable for such costs pursuant to subsection (6).

16 (d) Upon initiation of a dispute resolution pursuant
17 to this section, no demand letter under s. 627.736(11) may be
18 sent in regard to the subject matter of the dispute resolution
19 unless:

20 1. A notice of participation has not been timely
21 submitted pursuant to paragraphs (a) or (b);

22 2. The dispute resolution organization or the agency
23 has not been able to issue a notice of resolution or final
24 order within the time provided pursuant to subsection (6); or

25 3. The insurer has failed to pay the reasonable amount
26 pursuant to the final order adopting the notice of resolution
27 together with the interest and penalties specified in
28 subsection (6), if applicable.

29 (e) The applicable statute of limitations shall be
30 tolled while a dispute resolution is pending and for a period
31 of 15 business days following:

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- 1 1. Expiration of time for the submission of a notice
2 of participation pursuant to paragraphs (a) or (b);
- 3 2. Expiration of time for the filing of the final
4 order adopting the notice of resolution pursuant to subsection
5 (6); or
- 6 3. The filing, with the agency clerk, of the final
7 order adopting the notice of resolution.
- 8 (4)(a) The resolution organization shall issue a
9 notice of resolution within 10 business days after the date
10 the organization receives all documentation from the health
11 care practitioner or the insurer pursuant to subsection (3).
- 12 (b) The resolution organization shall dismiss a notice
13 of dispute if:
- 14 1. The resolution organization has not received a
15 notice of participation pursuant to subsection (3) within 15
16 days after receiving a notice of dispute; or
- 17 2. The dispute resolution organization is unable to
18 issue a notice of resolution within the time provided by
19 subsection (5); however, the parties may with mutual agreement
20 extend the time for the issuance of the notice of resolution
21 by sending the dispute resolution organization a written
22 notice of extension signed by both parties and specifying the
23 date by which a notice of resolution must be issued or the
24 notice of dispute will be deemed dismissed.
- 25 (c) The resolution organization may, in its
26 discretion, schedule and conduct a telephone conference with
27 the health care practitioner and the insurer to facilitate the
28 dispute resolution in a cost-effective, efficient manner.
- 29 (d) In determining the reasonableness of a charge or
30 charges, the resolution organization may consider whether a
31 billing code or codes submitted on the claim are the codes

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1 that accurately reflect the diagnostic or treatment service on
2 the claim or whether the billing code or codes should be
3 bundled or unbundled.

4 (e) In determining the reasonableness of a charge or
5 charges, the resolution organization shall determine whether
6 the charge or charges are less than or equal to the highest
7 reasonable charge or charges that represent the usual and
8 customary rates charged by similar health care practitioners
9 licensed under the same chapter for the geographic area of the
10 health care practitioner involved in the dispute, and, if the
11 charges in dispute are less than or equal to such charges, the
12 resolution organization shall find them reasonable. In
13 determining the usual and customary rates in accordance with
14 this paragraph, the dispute resolution organization may not
15 take into consideration any information relating to, or based
16 wholly or partially on, any governmentally set fee schedule or
17 any contracted-for or discounted rates charged by health care
18 practitioners who contract with health insurers, health
19 maintenance organizations, or managed care organizations.

20 (f) A health care practitioner, who must be licensed
21 under the same chapter as the health care practitioner
22 involved in the dispute, may be used to advise the resolution
23 organization if such advice will assist the resolution
24 organization in resolving the dispute in a more
25 cost-effective, efficient manner.

26 (5)(a) The resolution organization shall issue a
27 notice of resolution within 10 business days after receipt of
28 the notice of participation pursuant to subsection (3). The
29 notice of resolution shall be based upon findings of fact and
30 shall be considered a recommended order. The notice of
31 resolution shall be submitted to the health care practitioner

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1 and the insurer by United States certified mail or registered
2 mail, return receipt requested, and to the agency.

3 (b) The notice of resolution shall state:

4 1. Whether the charge or charges submitted on the
5 claim are reasonable; or

6 2. If the resolution organization finds that any
7 charge or charges submitted on the claim are not reasonable,
8 the highest amount for such charge or charges that the
9 resolution organization finds to be reasonable.

10 (6)(a) In the event that the notice of resolution
11 finds that any charge or charges submitted on the claim are
12 not reasonable but that the highest reasonable charge or
13 charges are more than the amount or amounts paid by the
14 insurer, the insurer shall pay the additional amount found to
15 be reasonable within 10 business days after receipt of the
16 final order adopting the notice of resolution, together with
17 applicable interest under s. 627.736(4)(c) and a penalty of 10
18 percent of the additional amount found to be reasonable,
19 subject to a maximum penalty of \$250.

20 (b) In the event that the notice of resolution finds
21 that the charge or charges submitted on the claim are
22 reasonable, the insurer shall pay the additional amount or
23 amounts found to be reasonable within 10 business days after
24 receipt of the final order adopting the notice of resolution,
25 together with applicable interest under s. 627.736(4)(c) and a
26 penalty of 20 percent of the additional amount found to be
27 reasonable, subject to a maximum penalty of \$500.

28 (c) In the event that the final order adopting the
29 notice of resolution finds that the amount or amounts paid by
30 the insurer are equal to or greater than the highest
31 reasonable charge, the insurer shall not be liable for any

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1 interest or penalties.

2 (d) The agency shall issue a final order adopting the
3 notice of resolution within 10 days after receipt of the
4 notice of resolution. The final order shall be submitted to
5 the health care practitioner and the insurer by United States
6 certified mail or registered mail, return receipt requested.

7 (7)(a) If the insurer has paid the highest reasonable
8 amount or amounts as determined by the final order adopting
9 the notice of resolution, together with the interest and
10 penalties provided in subsection (6), if applicable, then no
11 civil action by the health care practitioner shall lie against
12 the insurer on the basis of the reasonableness of the charge
13 or charges, and no attorney's fees may be awarded for legal
14 assistance related to the charge or charges. The injured party
15 is not liable for, and the health care practitioner shall not
16 bill the injured party for, any amounts other than the
17 copayment and any applicable deductible based on the highest
18 reasonable amount as determined by the final order adopting
19 the notice of resolution.

20 (b) The notice of dispute and all documents submitted
21 by the health care practitioner and the insurer, together with
22 the notice of resolution and the final order adopting the
23 notice of resolution, may be introduced into evidence in any
24 civil action if such documents are admissible pursuant to the
25 Florida Evidence Code.

26 (8) The insurer shall be responsible for payment of
27 the entirety of the review costs established pursuant to
28 subsection (9).

29 (9) The agency shall adopt rules to establish a
30 process to be used by the resolution organization in
31 considering claim disputes submitted by a health care

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1 practitioner or insurer and the fees that may be charged by
 2 the agency for processing disputes under this section. Such
 3 fees may not exceed \$75.00 for each review.

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 5 (Redesignate subsequent sections.)
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8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 2, line 10, through
 11 page 3, line 2, delete those lines

12
 13 and insert:

14 vehicle insurance fraud; creating s. 408.7058,
 15 F.S.; providing definitions; creating a dispute
 16 resolution organization for disputes between
 17 health care practitioners and insurers;
 18 providing duties of the Agency for Health Care
 19 Administration; providing duties of the dispute
 20 resolution organization; providing procedures,
 21 requirements, limitations, and restrictions for
 22 resolving disputes; providing agency rulemaking
 23 authority; amending

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