

By Senator Gibson

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1                   A bill to be entitled  
2           An act relating to health care coverage; amending ss.  
3           627.6471 and 627.6472, F.S.; providing reimbursement  
4           rates applicable to payments by insurers for covered  
5           health care services provided in a hospital by  
6           physicians who are not members of a preferred provider  
7           network or exclusive provider network; providing  
8           requirements and limitations with respect to the  
9           collection of fees or payments for such services;  
10          defining the term "hospital-based physician" or  
11          "physician"; requiring an insurer to report certain  
12          violations to the Department of Health; amending s.  
13          641.31, F.S.; providing applicability; amending s.  
14          641.513, F.S.; providing reimbursement rates  
15          applicable to payments by health maintenance  
16          organizations for covered health care services  
17          provided in a hospital setting by physicians who do  
18          not have a contract with the health maintenance  
19          organization; providing requirements and limitations  
20          with respect to the collection of fees or payments for  
21          such services; defining the term "hospital-based  
22          physician" or "physician"; requiring a health  
23          maintenance organization to report certain violations  
24          to the Department of Health; providing an effective  
25          date.

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27   Be It Enacted by the Legislature of the State of Florida:

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29          Section 1. Subsection (7) is added to section 627.6471,

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30 Florida Statutes, to read:

31 627.6471 Contracts for reduced rates of payment;  
32 limitations; coinsurance and deductibles.-

33 (7) When a hospital is a member of an insurer's preferred  
34 provider network, and the hospital-based physicians that provide  
35 covered services at that hospital are not members of the  
36 insurer's preferred provider network, the following apply:

37 (a) Reimbursement by the insurer for covered services  
38 rendered to covered persons by the physician shall be the same  
39 as the percentage rate that is paid to preferred providers, and  
40 that reimbursement rate must be applied to the lesser of the  
41 following amounts:

42 1. The physician's charges;

43 2. The usual and customary amount accepted by physicians  
44 for similar services in the community where the services were  
45 provided; or

46 3. The amount mutually agreed to by the physician and the  
47 insurer.

48 (b) If the insurer is liable for services rendered by the  
49 hospital-based physician, the insurer is liable for payment of  
50 the fees to the physician, and the covered persons are not  
51 liable for payment of fees to the physician, except for co-  
52 insurance or other cost sharing applicable pursuant to the  
53 covered persons insurance contract. A physician or any  
54 representative of the physician may not collect or attempt to  
55 collect money from, maintain any action at law against, or  
56 report to a credit agency a covered person for payment of  
57 services for which the insurer is liable, if the physician in  
58 good faith knows or should know that the insurer is liable. This

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59 prohibition applies during the pendency of any claim for payment  
60 made by the physician to the insurer for payment of the services  
61 and any legal proceedings or dispute resolution process to  
62 determine whether the insurer is liable for the services if the  
63 physician is informed that such proceedings are taking place. It  
64 is presumed that a physician does not know and should not know  
65 that the insurer is liable unless:

66 1. The physician is informed by the insurer that it accepts  
67 liability;

68 2. A court of competent jurisdiction determines that the  
69 insurer is liable; or

70 3. The office makes a final determination that the insurer  
71 is required to pay for such services.

72 (c) For purposes of this subsection, the term "hospital-  
73 based physician" or "physician" means any physician, including,  
74 but not limited to, radiologists, anesthesiologists,  
75 pathologists, emergency room physicians, or group of physicians,  
76 that have entered into a contract with a hospital that:

77 1. Allows a physician to provide medical services for  
78 inpatient and outpatient treatment through the hospital without  
79 being specifically chosen by the patient;

80 2. Precludes similar-specialty physicians from providing  
81 medical treatment for inpatient and outpatient treatment through  
82 the hospital; or

83 3. Fosters the opportunity for a physician to provide  
84 medical services for inpatient and outpatient treatment through  
85 the hospital.

86 (d) The insurer shall report any suspected violation of  
87 this subsection to the Department of Health, which shall take

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88 appropriate action as authorized by law.

89 Section 2. Subsection (19) is added to section 627.6472,  
90 Florida Statutes, to read:

91 627.6472 Exclusive provider organizations.-

92 (19) When a hospital is a member of an insurer's exclusive  
93 provider network, and the hospital-based physicians that provide  
94 covered services at that hospital are not members of the  
95 insurer's exclusive provider network, the following apply:

96 (a) Reimbursement by the insurer for covered services  
97 rendered to covered persons by the physician shall be the same  
98 as the percentage rate that is paid to exclusive providers, and  
99 that reimbursement rate must be applied to the lesser of the  
100 following amounts:

101 1. The physician's charges;

102 2. The usual and customary amount accepted by physicians  
103 for similar services in the community where the services were  
104 provided; or

105 3. The amount mutually agreed to by the physician and the  
106 insurer.

107 (b) If the insurer is liable for services rendered by the  
108 hospital-based physician, the insurer is liable for payment of  
109 the fees to the physician, and the covered persons are not  
110 liable for payment of fees to the physician, except for co-  
111 insurance or other cost sharing applicable pursuant to the  
112 covered persons insurance contract. A physician or any  
113 representative of the physician may not collect or attempt to  
114 collect money from, maintain any action at law against, or  
115 report to a credit agency a covered person for payment of  
116 services for which the insurer is liable, if the physician in

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117 good faith knows or should know that the insurer is liable. This  
118 prohibition applies during the pendency of any claim for payment  
119 made by the physician to the insurer for payment of the services  
120 and any legal proceedings or dispute resolution process to  
121 determine whether the insurer is liable for the services if the  
122 physician is informed that such proceedings are taking place. It  
123 is presumed that a physician does not know and should not know  
124 that the insurer is liable unless:

125 1. The physician is informed by the insurer that it accepts  
126 liability;

127 2. A court of competent jurisdiction determines that the  
128 insurer is liable; or

129 3. The office makes a final determination that the insurer  
130 is required to pay for such services.

131 (c) For purposes of this subsection, the term "hospital-  
132 based physician" or "physician" means any physician, including,  
133 but not limited to, radiologists, anesthesiologists,  
134 pathologists, emergency room physicians, or group of physicians,  
135 that have entered into a contract with a hospital that:

136 1. Allows a physician to provide medical services for  
137 inpatient and outpatient treatment through the hospital without  
138 being specifically chosen by the patient;

139 2. Precludes similar-specialty physicians from providing  
140 medical treatment for inpatient and outpatient treatment through  
141 the hospital; or

142 3. Fosters the opportunity for a physician to provide  
143 medical services for inpatient and outpatient treatment through  
144 the hospital.

145 (d) The insurer shall report any suspected violation of

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146 this subsection to the Department of Health, which shall take  
147 appropriate action as authorized by law.

148 Section 3. Paragraph (d) of subsection (38) of section  
149 641.31, Florida Statutes, is amended to read:

150 641.31 Health maintenance contracts.—

151 (38)

152 (d) Notwithstanding the limitations of deductibles and  
153 copayment provisions in this part, a point-of-service rider may  
154 require the subscriber to pay a reasonable copayment for each  
155 visit for services provided by a noncontracted provider chosen  
156 at the time of the service. The copayment by the subscriber may  
157 either be a specific dollar amount or a percentage of the  
158 reimbursable provider charges covered by the contract and must  
159 be paid by the subscriber to the noncontracted provider upon  
160 receipt of covered services. The point-of-service rider may  
161 require that a reasonable annual deductible for the expenses  
162 associated with the point-of-service rider be met and may  
163 include a lifetime maximum benefit amount. The rider must  
164 include the language required by s. 627.6044 and must comply  
165 with copayment limits described in s. 627.6471. Section 641.3154  
166 does not apply to a point-of-service rider authorized under this  
167 subsection, unless the health care services are rendered in an  
168 emergency setting or in a hospital or by hospital-based  
169 physicians as described in s. 641.513.

170 Section 4. Subsection (5) of section 641.513, Florida  
171 Statutes, is amended to read:

172 641.513 Requirements for providing emergency services and  
173 care.—

174 (5) (a) Reimbursement for services pursuant to this section

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175 by a provider, including those services rendered in an emergency  
176 setting in a hospital or by a hospital-based physician, who does  
177 not have a contract with the health maintenance organization  
178 shall be the lesser of:

179 1.(a) The provider's charges;

180 2.(b) The usual and customary provider charges for similar  
181 services in the community where the services were provided; or

182 3.(e) The charge mutually agreed to by the health  
183 maintenance organization and the provider within 60 days of the  
184 submittal of the claim.

185 (b) If the health maintenance organization is liable for  
186 services rendered by the hospital-based physician, the health  
187 maintenance organization is liable for payment of the fees to  
188 the physician, and the subscriber is not liable for payment of  
189 fees to the physician, except for copayment or other cost  
190 sharing applicable pursuant to the subscriber's health  
191 maintenance organization contract. A physician or any  
192 representative of the physician may not collect or attempt to  
193 collect money from, maintain any action at law against, or  
194 report to a credit agency a subscriber for payment of services  
195 for which the health maintenance organization is liable, if the  
196 physician in good faith knows or should know that the health  
197 maintenance organization is liable. This prohibition applies  
198 during the pendency of any claim for payment made by the  
199 physician to the health maintenance organization for payment of  
200 the services and any legal proceedings or dispute resolution  
201 process to determine whether the health maintenance organization  
202 is liable for the services if the physician is informed that  
203 such proceedings are taking place. It is presumed that a

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204 physician does not know and should not know that the health  
205 maintenance organization is liable unless:

206 1. The physician is informed by the health maintenance  
207 organization that it accepts liability;

208 2. A court of competent jurisdiction determines that the  
209 health maintenance organization is liable; or

210 3. The office makes a final determination that the health  
211 maintenance organization is required to pay for such services.

212 (c) For purposes of this subsection, the term "hospital-  
213 based physician" or "physician" means any physician, including,  
214 but not limited to, radiologists, anesthesiologists,  
215 pathologists, emergency room physicians, or group of physicians,  
216 that have entered into a contract with a hospital that:

217 1. Allows a physician to provide medical services for  
218 inpatient and outpatient treatment through the hospital without  
219 being specifically chosen by the patient;

220 2. Precludes similar-specialty physicians from providing  
221 medical treatment for inpatient and outpatient treatment through  
222 the hospital; or

223 3. Fosters the opportunity for a physician to provide  
224 medical services for inpatient and outpatient treatment through  
225 the hospital.

226 (d) The health maintenance organization shall report any  
227 suspected violation of this subsection to the Department of  
228 Health, which shall take appropriate action as authorized by  
229 law.

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231 Such reimbursement shall be net of any applicable copayment  
232 authorized pursuant to subsection (4).



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Section 5. This act shall take effect July 1, 2013.