By: Smithee H.B. No. 1406

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of the calculation of out-of-network payments by the issuers of preferred provider benefit plans and by health maintenance organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 843, Insurance Code, is amended by adding Section 843.212 to read as follows:

Sec. 843.212. CALCULATION OF NONPARTICIPATING PROVIDER PAYMENTS. (a) In this section, "usual charge for out-of-network health care services" means the 99th percentile of the actual charges charged by a physician or provider that does not participate in a health maintenance organization's delivery network for a particular health care service in a particular service area covered by the delivery network, as reported in a benchmarking database maintained by a nonprofit organization that is not affiliated with a health maintenance organization or other health benefit plan issuer, a holding company of a health benefit plan issuer, or a trade association in the field of insurance or health benefits.

(b) A health maintenance organization shall disclose to each enrollee and, if applicable, each group contract holder the methodology used by the health maintenance organization to calculate payment under the health plan for health care services provided by a physician or provider that does not participate in the

1 health maintenance organization's delivery network. The
2 disclosure required by this section must:
3 (1) express the payment amount in terms of a
4 percentage of the usual charge for out-of-network health care
5 services that will be paid to the physician or provider; and
6 (2) include examples of the anticipated out-of-pocket
7 payment responsibility for frequently billed health care services
8 provided by physicians or providers that do not participate in the
9 health maintenance organization's delivery network.
10 (c) A health maintenance organization shall, at the request
11 of an enrollee, provide the enrollee with information, in writing
12 or through publication on an Internet website, that allows the
13 enrollee to determine the anticipated out-of-pocket payment
14 responsibility for a specific health care service provided by a
15 physician or provider that does not participate in the health
16 maintenance organization's delivery network based on:
17 (1) the methodology used by the health maintenance
18 organization to calculate payment under the health plan for health
19 care services provided by physicians and providers that do not
20 participate in the health maintenance organization's delivery
21 network; and
22 (2) the usual charge for out-of-network health care
23 services.
24 SECTION 2. Subchapter A, Chapter 1301, Insurance Code, is
25 amended by adding Section 1301.010 to read as follows:
26 Sec. 1301.010. CALCULATION OF NONPREFERRED PROVIDER
27 PAYMENTS. (a) In this section, "usual charge for out-of-network

1 health care services" means the 99th percentile of the actual
2 charges charged by a nonpreferred provider for a particular health
3 care service in a particular service area covered by the preferred
4 provider benefit plan, as reported in a benchmarking database
5 maintained by a nonprofit organization that is not affiliated with
6 an insurer or other health benefit plan issuer, a holding company of
7 a health benefit plan issuer, or a trade association in the field of
8 insurance or health benefits.
9 (b) An insurer offering a preferred provider benefit plan
10 shall disclose to each insured and, if applicable, each group
11 policy holder the methodology used by the insurer to calculate
12 payment under the plan for health care services provided by
13 nonpreferred providers. The disclosure required by this section
14 must:
15 (1) express the payment amount in terms of a
16 percentage of the usual charge for out-of-network health care
17 services that will be paid to the provider; and
18 (2) include examples of the anticipated out-of-pocket
19 payment responsibility for frequently billed health care services
20 provided by nonpreferred providers.
21 (c) An insurer offering a preferred provider benefit plan
22 shall, at the request of an insured, provide the insured with
23 information, in writing or through publication on an Internet
24 website, that allows the insured to determine the anticipated
25 out-of-pocket payment responsibility for a specific health care
26 service provided by a nonpreferred provider based on:
27 (1) the methodology used by the insurer to calculate

1 payment under the plan for health care services provided by
2 nonpreferred providers; and
3 (2) the usual charge for out-of-network health care
4 services.
5 SECTION 3. The change in law made by this Act applies only
6 to a health plan contract or health insurance policy that is
7 delivered, issued for delivery, or renewed on or after January 1,
8 2014. A health plan contract or health insurance policy that is
9 delivered, issued for delivery, or renewed before January 1, 2014,
10 is covered by the law in effect immediately before the effective
11 date of this Act, and that law is continued in effect for that
12 purpose.
13 SECTION 4. This Act takes effect September 1, 2013.