

By: Bonnen of Galveston

H.B. No. 4016

A BILL TO BE ENTITLED

1 AN ACT
2 relating to payment of and disclosures related to certain
3 out-of-network provider charges; providing a penalty.

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

5 SECTION 1. Chapter 1301, Insurance Code, is amended by
6 adding Subchapter C-2 to read as follows:

7 SUBCHAPTER C-2. PAYMENT OF OUT-OF-NETWORK PROVIDER CHARGES

8 Sec. 1301.141. DEFINITIONS. In this subchapter:

9 (1) "Geozip area" means an area that includes all zip
10 codes with the identical first three digits. For purposes of this
11 term, the geozip area is the closest geozip area to the location in
12 which the health care service was performed if the location does not
13 have a zip code.

14 (2) "Out-of-network provider," with respect to a
15 preferred provider benefit plan, means a physician or health care
16 provider that is not a preferred provider of the plan.

17 (3) "Usual and customary charge" means 135% of the
18 highest allowed charge for a service, classified by geozip area and
19 Current Procedural Terminology code.

20 Sec. 1301.1414. APPLICABILITY OF SUBCHAPTER. (a) This
21 subchapter applies only to an insurer providing a preferred
22 provider benefit plan that provides benefits for services provided
23 by out-of-network providers.

24 (b) This subchapter does not apply to:

1 (1) the Employees Retirement System of Texas or
2 another entity issuing or administering a basic coverage plan under
3 Chapter 1551;

4 (2) the Teacher Retirement System of Texas or another
5 entity issuing or administering a basic plan under Chapter 1575 or a
6 health coverage plan under Chapter 1579; and

7 (3) The Texas A&M University System or The University
8 of Texas System or another entity issuing or administering basic
9 coverage under Chapter 1601.

10 Sec. 1301.1415. PAYMENT OF CERTAIN OUT-OF-NETWORK
11 PROVIDERS. (a) If an out-of-network provider submits to an insurer
12 a claim for payment of a charge that is less than or equal to the
13 usual and customary charge for the service provided and includes an
14 election by the out-of-network provider to participate in this
15 subchapter, the insurer shall pay the charge minus any portion of
16 the charge that is the insured's responsibility under the preferred
17 provider benefit plan.

18 (b) An insurer may not pay less than the amount the insurer
19 is required to pay under this section because the insurer has not
20 received a portion of the charge that is the insured's
21 responsibility.

22 Sec. 1301.1416. PROMPT PAYMENT OF CERTAIN CLAIMS. If an
23 out-of-network provider submits to an insurer a claim described by
24 Section 1301.1415, the insurer shall pay the claim in accordance
25 with Subchapter C as if the physician or health care provider were a
26 preferred provider.

27 Sec. 1301.142. DISCLOSURES REGARDING PAYMENT OF

1 OUT-OF-NETWORK PROVIDER. (a) An insurer that provides benefits
2 under a preferred provider benefit plan for services provided by
3 out-of-network providers must disclose in the summary plan
4 description, on an Internet website maintained by the insurer, and
5 to a prospective purchaser of the plan:

6 (1) the definition of "usual and customary charge"
7 assigned by Section 1301.141;

8 (2) examples of the anticipated portion of the charge
9 that will be the insured's responsibility for frequently billed
10 health care services by out-of-network providers; and

11 (3) a methodology for determining the anticipated
12 portion of the charge that will be the insured's responsibility for
13 a specific health care service that is based on the amount, not an
14 approximation, that the insurer pays.

15 (b) Disclosures under this section must:

16 (1) be made in language easily understood by
17 purchasers and prospective purchasers of preferred provider
18 benefit plans;

19 (2) be made in a uniform, clearly organized manner;

20 (3) be of sufficient detail and comprehensiveness as
21 to provide for full and fair disclosure; and

22 (4) be updated as necessary to ensure that the
23 disclosures are accurate.

24 Sec. 1301.1425. PAYMENT IN FULL. If the insurer's payment
25 due under a preferred provider benefit plan's out-of-network
26 benefit provisions is greater than or equal to the usual and
27 customary charge but is not sufficient to cover the total billed

1 charge, an out-of-network provider electing to participate in this
2 subchapter agrees to accept as payment in full the amount paid by
3 the plan in accordance with those provisions plus any portion of the
4 charge that is the insured's responsibility under the plan.

5 Sec. 1301.143. REMEDIES. (a) An insurer that violates
6 Section 1301.1416 is subject to the penalties imposed under Section
7 1301.137 as if the out-of-network provider were a preferred
8 provider.

9 (b) The remedies provided by this section are in addition to
10 remedies available under any other provision of this code.

11 SECTION 2. Subchapter C-2, Chapter 1301, Insurance Code, as
12 added by this Act, applies only to charges for services provided to
13 an insured under a health insurance policy delivered, issued for
14 delivery, or renewed on or after January 1, 2018. Charges for
15 services provided to an insured under a policy delivered, issued
16 for delivery, or renewed before January 1, 2018, are governed by the
17 law in effect immediately before the effective date of this Act, and
18 that law is continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2017.