

Date: February 7, 2017	POLICY BRIEF PREPARED FOR THE BOARD OF DIRECTORS	 OF NORTHERN LARIMER COUNTY
Staff: Dan Sapienza		

SB17-065 – TRANSPARENCY IN DIRECT PAY HEALTH CARE PRICES:

Concerning a requirement that health care providers disclose the charges they impose for common health care services when payment is made directly rather than by a third party.

Details

Bill Sponsors: House – None
Senate – Sens. Lundberg, Aguilar

Committee: Senate Health and Human Services

Bill History: Senate Third Reading Passed - No Amendments

Next Action: House Hearing

Bill Summary

This bill requires health providers and health facilities to make available (at the location and on their website) lists of the consumer, non-insurance prices for the most common services they provide. Specifically, health providers must post the most common 15 services and health facilities must make available their 50 most commonly provided services.

Issue Summary

While many argue that consumer choice about utilization of health care is an essential way to improve the functioning of the health care market, many consumers find that they are unable to easily compare prices for health services. Health providers and facilities charge a variety of different prices based on the payer. While health insurance carriers are able to negotiate lower reimbursement rates because of their market power, consumers who must (or who opt to) pay for their own care often pay the highest rates, which sometimes is only discovered after the fact, when the bill arrives.

Many health reform ideas feature the use of Health Savings Accounts, where patients pay for almost all care up to a high deductible amount out of a tax-preferred account. The idea is that consumers will take responsibility for their own funds by shopping around as consumers do with many other goods or services. Facilities and providers are not required to make their pricing easily comparable and without such a requirement, many prices are very difficult to discover.

This legislation

This bill seeks to make price comparison of health providers easier and to help consumers know in advance (before the care is provided) some of the prices that they will pay for care. The bill looks at health care prices, defined as the price, before discounts, that a patient will be charged for common services. This price is meant to be the usual price and not the entire range of potential prices that might occur due to “complications or exceptional treatment.” Further, the price sought is the price paid by the usual non-insured patient, not a price that might be paid by a health plan, public health benefit, or a negotiated price with an employer.

The bill covers health providers, broadly defined as a person licensed to provide medical, dental, mental, or optometric care, or to provide other services for the purpose of preventing, alleviating, curing, or healing an illness. This broad definition would include most providers of traditional and holistic care. Individual health providers must make available the prices for the fifteen most commonly provided services and health

facilities must make available the prices for the fifty most commonly provided services. These services must be described in plain language as well as by procedural codes. Additionally, the document making the price available must state:

If you are covered by health insurance, you are strongly encouraged to consult with your health insurer to determine accurate information about your financial responsibility for a particular health care service provided by a health care provider at this office. If you are not covered by health insurance, you are strongly encouraged to contact our billing office at (insert telephone number) to discuss payment options prior to receiving a health care service from a health care provider at this office since posted health care prices may not reflect the actual amount of your financial responsibility.

The final section of SB17-065 states that the health providers and facilities do not have to file this information with any government entity and that government entities have no authority to approve or disapprove of the posted prices. The section goes on to state that no entity may punish a provider or recipient for exercising rights under the bill.¹ The bill is not clear as to what the repercussions would be for non-compliance by a health provider or who might enforce the bill's requirements.

Reasons to Support

- The lack of price transparency in the health system has been well-documented for a long time. This stands as an obstacle to the development of consumer-oriented health policies that could encourage patients to compare prices and reduce health expenditures. This bill would require providers and facilities to make price sheets available for a variety of services, the services they most commonly provide.
- The public posting of health prices would be a boon to health policy and systems researchers, who regularly have difficulty understanding the price differences across geographic areas, provider systems, or types of provider. This information being made widely available would encourage a greater understanding of price disparities, which could be used to improve public policy, to help patients navigate health systems, and to identify potential areas of need.

Supporters

- Colorado Consumer Health Initiative
- Colorado Hospital Association
- Rocky Mountain Health Plans
- Colorado Society of Eye Physicians and Surgeons

Reasons to Oppose

- While the bill presents some information (the most commonly provided 15 or 50 services), that information would be incomplete and potentially misleading to consumers and others. The bill discusses services, but not products, so the displayed price might exclude additional charges that are regularly added to the bill of such a service. Further, the price would likely not include any pharmaceuticals or follow-on care that might be required. Additionally, some services might often be combined, but the displayed price might only show the prices as separate CPT codes.

As noted above, the displayed price should be the usual price, not the entire range of potential prices that might occur due to "complications or exceptional treatment." This phrase is not defined, so the displayed price might be misleading in many cases that require some "exceptional treatment."

¹ A person, entity, agency, or health insurer shall not punish a recipient, health care provider, health care facility, person, entity, or employer for participating directly in, exercising rights under, or complying with this article 49.

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Consumers would not be able to rely on the accuracy of the displayed pricing in their specific situation and would have no way of comparing the entire episode of care, only the specific service listed.

- The last section of the bill explicitly prohibits the use of this posted price information for purposes of regulation by the state. It is unclear, but doubtful, that patients would have any recourse for inaccurate information provided under the bill or whether a provider could be penalized for deliberately posting inaccurate information. Codifying this with this bill could possibly prevent future regulation in this area.
- The bill is not clear about how it would apply to health care providers with alternative payment systems, such as direct primary care agreements, managed care (not Fee for Service), or exclusive contracts with third party payers. The bill states that a provider that contracts with an HMO posts the prices it would charge non-members of the HMO, but the bill does not state how a provider would calculate such a price if it never served non-members.
- There would be some cost associated with collecting this information on an annual basis and providing it on the website of the health provider and facility.

Opponents

- Colorado Society of Osteopathic Medicine

About this Summary

This summary was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Dan Sapienza, Policy Coordinator, at (970) 224-5209, or e-mail at dsapienza@healthdistrict.org.