

PUBLIC CHAPTER NO. 1027

SENATE BILL NO. 3843

By Kyle, McNally

Substituted for: House Bill No. 3832

By Curtiss, Mike Turner

AN ACT to amend Tennessee Code Annotated, Title 56, relative to regulation of insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-120(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(a)(1) Notwithstanding any law, rule, or regulation to the contrary, whenever any policy of insurance issued in this state provides for coverage of health care rendered by a provider covered under Title 63, the insured or other persons entitled to benefits under the policy shall be entitled to assign these benefits to the healthcare provider and such rights must be stated clearly in the policy. Notice of the assignment must be in writing to the insurer in order to be effective; provided, however, such notice can be provided by other means if it is so stated in the policy.

SECTION 2. Tennessee Code Annotated, Section 56-7-120, is amended by adding the following language as a new subsection (c):

(c)(1) For purposes of this subsection:

(A) "Participating healthcare facility" means a healthcare facility that has a current contract provider agreement with the insured's insurer; and

(B) "Non-participating facility-based physician" means a physician:

(i) To whom a participating healthcare facility has granted clinical privileges;

(ii) Who provides services to patients of the participating healthcare facility pursuant to those clinical privileges; and

(iii) Who does not have a current contract provider agreement with the insured's insurer.

(2) An insured's assignment of benefits, pursuant to subsection (a), may be disregarded by an insurer if:

(A) The assignment of benefits is to a non-participating facility-based physician; and

(B) All of the following conditions are not satisfied:

(i)(a) The healthcare facility provides written notice to the insured that informs the insured that:

(1) The non-participating facility-based physician shall not have a current contract provider agreement with the insured's insurer; and

(2) The insured shall receive a bill for medical services from the non-participating facility-based physician for the amount unpaid by the insured's insurer;

(b) The notice required by subdivision (c)(2)(B)(i)(a) shall be provided to the insured, or the insured's personal representative, prior to when the insured first receives services from the non-participating facility-based physician. In circumstances where the insured is receiving medical services through a hospital emergency department or is incapacitated or unconscious at the time of receiving such services, the notice will not be required. The failure of the healthcare facility to provide the notice required by subdivision (c)(2)(B)(i)(a) shall not give rise to any right of indemnification or private cause of action against the healthcare facility by any non-participating facility-based physician for an insurer's disregard of an insured's assignment of benefits unless the healthcare facility's failure to provide such notice is due to willful or wanton misconduct of an agent of the healthcare facility; and

(ii) The non-participating facility-based physician provides the insured a billing statement that:

(a) Contains an itemized listing of the services and supplies provided along with the dates when the services and supplies were provided;

(b) Contains a conspicuous, plain language explanation that:

(1) The non-participating facility-based physician does not have a current contract provider agreement with the insured's insurer; and

(2) The insurer has paid a rate, as determined by the insurer, that is below the non-participating facility-based physician's billed amount;

(c) Contains a telephone number to call to discuss the billing statement, provide an explanation of any acronyms, abbreviations, and numbers used on the statement, or discuss any payment issues;

(d) Contains a statement that the insured may call to discuss alternative payment arrangements; and

(e) For billing statements that total an amount greater than two hundred dollars (\$200), over any applicable copayments, coinsurance or deductibles, states, in plain language, that if the insured finalizes a payment plan agreement within forty-five (45) days of receiving the first billing statement and substantially complies with the agreement, the non-participating facility-based physician shall not furnish adverse information to a consumer reporting agency regarding an amount owed by the insured. For purposes of this subdivision (c)(2)(B)(ii)(e), a patient shall be considered out of substantial compliance with the payment plan agreement if the payments are not made in compliance with the agreement for a period of forty-five (45) days.

(3) Nothing in this subsection (c) shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit hospital insurance policies.

SECTION 3. Tennessee Code Annotated, Section 56-32-126(b)(6), is amended by adding the language "or durable medical equipment" immediately after the language "mental health benefits".

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 24, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 9th day of June 2010



PHIL BREDESEN, GOVERNOR