

June 2018

Governor Murphy Signs Out-of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act into Law

On Friday, June 1, 2018, Governor Murphy signed into law the Out-of-Network Consumer Protection, Transparency, Cost Containment and Accountability Act, to take effect Thursday, August 30. The bill is intended to protect patients from surprise out-of-network medical bills. It is applicable to those insurance carriers that are governed by the New Jersey State Department of Banking and Insurance, which is approximately 30% of the health insurance market, as well as self-funded federal plans that opted-in. The self-funded plans are federally regulated.

The Act prohibits health care providers and facilities from balance billing patients who received emergent or urgent out-of-network services, and requires health care providers and facilities to resolve out-of-network reimbursement disputes directly with the carriers. If a resolution cannot be reached, the law provides for an arbitration process.

The out-of-network provider can take advantage of the arbitration process only if the difference between the amount they are seeking and the amount the insurance company is offering is at least \$1,000 or more. As the law is currently written, the arbitrator will be able to choose either the final amount offered by the insurance company or the final amount requested by the physician. Pursuant to the new law, choosing an amount the arbitrator believes to be a reasonable compromise between the two is not an option.

For non-emergency services, the law sets forth disclosures health care professionals and facilities must provide to the patient, such as their participation status with the patient's insurance company and the patient's responsibility to pay any additional out-of-network fees. Additionally, if requested, health care providers and facilities must provide the patient with estimated fees for the anticipated services, and establish a public posting regarding standard charges. If the patient knowingly elects to proceed with non-emergency services with either an out-of-network provider or out-of-network facility, the arbitration process set forth in the new law is not available to the health care provider or the facility.

This *Health Care Alert* was written by Svetlana (Lana) Ros, Esq. If you have any questions about the information contained in this alert or any other questions related to health care law, please feel free to contact her at SLRos@nmmlaw.com.

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