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SENATE MEMORIAL 55

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Gerald Ortiz y Pino

A MEMORIAL

REQUESTING THE SUPERINTENDENT OF INSURANCE TO CONVENE A GROUP OF STAKEHOLDERS WITH EXPERTISE IN THE AREAS OF HEALTH CARE DELIVERY, HEALTH COVERAGE AND HEALTH CARE FINANCE TO STUDY AND REPORT ON THE LIKELY EFFECTS OF MANDATORY ASSIGNMENT OF BENEFITS LEGISLATION REQUIRING INSURERS TO ACCEPT AN ASSIGNMENT OF BENEFITS FROM A NON-CONTRACTED HEALTH CARE PROVIDER.

WHEREAS, an assignment of benefits form executed by a patient may allow a health care provider to directly bill and be paid by a patient's health insurance company; and

WHEREAS, most patients elect to assign health insurance benefit payments directly to their health care provider at the initial intake appointment; and

WHEREAS, a health care provider will submit a claim for payment to a patient's insurance company with a copy of the

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1 patient's executed assignment of benefits form; and

2 WHEREAS, a patient may have visited a health care provider
3 who is not contracted with the patient's insurance company and
4 is therefore considered "out-of-network" by the patient's
5 insurance company; and

6 WHEREAS, many insurance companies do not honor a patient's
7 assignment of benefits for out-of-network costs; and

8 WHEREAS, the insurance company may include in its contract
9 with the patient a clause prohibiting assignment of benefits
10 for out-of-network costs; and

11 WHEREAS, an insurance company often sends reimbursements
12 for out-of-network costs directly to a patient rather than the
13 health care provider, leaving the health care provider to spend
14 time and money on billing and collection; and

15 WHEREAS, putting a health care provider in a position that
16 requires billing and collection of an outstanding and sometimes
17 unexpected bill may undermine the trust in the relationship
18 between the provider and patient; and

19 WHEREAS, assignment of benefits is integral to the
20 management of a health care provider's practice, and efficient
21 payment lowers costs for health care providers and patients;
22 and

23 WHEREAS, however, a patient receiving payment directly
24 from an insurer may improve the patient's ability to negotiate
25 lower health care costs; and

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1 WHEREAS, requiring insurance companies to pay health care
2 providers directly for out-of-network services may incentivize
3 health care providers to avoid contracting with a health
4 insurance network; and

5 WHEREAS, if health care providers do not join health
6 insurance networks, patients may therefore lose contracted
7 health insurance network discounts, raising costs for patients;
8 and

9 WHEREAS, assignment of benefits forms may also include the
10 assignment of the right to sue for payment on behalf of the
11 patient and may therefore involve the patient in unwanted
12 litigation; and

13 WHEREAS, the federal Employee Retirement Income Security
14 Act of 1974 may prevent state law from effectively requiring
15 enforcement of assignment of benefits forms for certain claims;
16 and

17 WHEREAS, according to an article published in 2011 in the
18 *Indiana Health Law Review*, as of January 2010, nearly one-half
19 of the states had enacted legislation requiring insurance
20 companies to honor patients' assignments of benefits and about
21 one-half of those laws covered only claims by certain health
22 care providers, such as providers of dental or emergency care,
23 while the rest cover several health care providers; and

24 WHEREAS, enacting legislation in New Mexico to require
25 insurance companies to honor assignment of benefits forms may

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1 have consequences that should be carefully studied;

2 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
3 OF NEW MEXICO that the superintendent of insurance be requested
4 to convene a "mandatory assignment of health insurance benefits
5 task force", the membership of which shall include experts in
6 the areas of health care delivery, health coverage and health
7 care finance, including representatives from the New Mexico
8 hospital association, the New Mexico association of commerce
9 and industry, the New Mexico medical society, the New Mexico
10 osteopathic medical association, the New Mexico nurses
11 association, health action New Mexico and the New Mexico
12 primary care association, to study the likely impact on health
13 care providers, health care institutions, patients and health
14 care insurers of enacting a law that requires health care
15 insurers to honor properly executed assignment of benefits
16 forms; and

17 BE IT FURTHER RESOLVED that the superintendent of
18 insurance be requested to report the results of the mandatory
19 assignment of health insurance benefits task force study to the
20 legislative health and human services committee by November 1,
21 2019; and

22 BE IT FURTHER RESOLVED that copies of this memorial be
23 transmitted to the governor, the chair and vice chair of the
24 legislative health and human services committee, the secretary
25 of human services, the secretary of health and the

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superintendent of insurance.