

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 234

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REFINE THE REQUIREMENTS FOR CREDENTIALING OF HEALTH CARE PROVIDERS BY HEALTH INSURERS; MAKING REQUIREMENTS APPLICABLE TO OUT-OF-STATE PROVIDERS; ENSURING THAT ALL ELIGIBLE PROVIDERS RECEIVE PROMPT PAYMENT FOR CLEAN CLAIMS AND INTEREST ON UNPAID CLAIMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 59A-16-21.1 NMSA 1978 (being Laws 2000, Chapter 58, Section 1, as amended) is amended to read:

"59A-16-21.1. HEALTH PLAN REQUIREMENTS.--

A. As used in this section:

(1) "clean claim" means a manually or electronically submitted claim from [~~a participating~~] an

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underscored material = new  
[bracketed material] = delete

1 eligible provider that:

2 (a) contains substantially all the  
3 required data elements necessary for accurate adjudication  
4 without the need for additional information from outside of the  
5 health plan's system;

6 (b) is not materially deficient or  
7 improper, including lacking substantiating documentation  
8 currently required by the health plan; and

9 (c) has no particular or unusual  
10 circumstances requiring special treatment that prevent payment  
11 from being made by the health plan within thirty days of the  
12 date of receipt if submitted electronically or forty-five days  
13 if submitted manually; [~~and~~]

14 (2) "eligible provider" means an individual or  
15 entity that:

16 (a) is a participating provider;

17 (b) a health plan has credentialed after  
18 assessing and verifying the provider's qualifications; or

19 (c) a health plan is obligated to  
20 reimburse for claims in accordance with the provisions of: 1)  
21 Subsection G of Section 59A-22-54 NMSA 1978; 2) Subsection G of  
22 Section 59A-23-14 NMSA 1978; 3) Subsection G of Section  
23 59A-46-54 NMSA 1978; or 4) Subsection G of Section 59A-47-49  
24 NMSA 1978;

25 (3) "health plan" means one of the following

1 entities or its agent: health maintenance [~~organizations~~]  
2 organization, nonprofit health care plan, provider service  
3 [~~networks~~] network or third-party [~~payers or their agents~~]  
4 payer; and

5 (4) "participating provider" means an  
6 individual or entity participating in a health plan's provider  
7 network.

8 B. A health plan shall provide for payment of  
9 interest on the plan's liability at the rate of one and one-  
10 half percent a month on:

11 (1) the amount of a clean claim electronically  
12 submitted by the [~~participating~~] eligible provider and not paid  
13 within thirty days of the date of receipt; and

14 (2) the amount of a clean claim manually  
15 submitted by the [~~participating~~] eligible provider and not paid  
16 within forty-five days of the date of receipt.

17 C. If a health plan is unable to determine  
18 liability for or refuses to pay a claim of [~~a participating~~] an  
19 eligible provider within the times specified in Subsection B of  
20 this section, the health plan shall make a good-faith effort to  
21 notify the [~~participating~~] eligible provider by fax, electronic  
22 or other written communication within thirty days of receipt of  
23 the claim if submitted electronically or forty-five days if  
24 submitted manually of all specific reasons why it is not liable  
25 for the claim or that specific information is required to

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1 determine liability for the claim.

2 D. No contract between a health plan and a  
3 participating provider shall include a clause that has the  
4 effect of relieving either party of liability for its actions  
5 or inactions.

6 E. [~~By December 1, 2000~~] The office of  
7 superintendent of insurance, with input from interested  
8 parties, including health plans and [~~participating~~] eligible  
9 providers, shall promulgate rules to require health plans to  
10 provide:

11 (1) timely [~~participating~~] eligible provider  
12 access to claims status information;

13 (2) processes and procedures for submitting  
14 claims and changes in coding for claims;

15 (3) standard claims forms; and

16 (4) uniform calculation of interest."

17 SECTION 2. Section 59A-22-54 NMSA 1978 (being Laws 2015,  
18 Chapter 111, Section 1) is amended to read:

19 "59A-22-54. PROVIDER CREDENTIALING--REQUIREMENTS--  
20 DEADLINE.--

21 A. The superintendent shall adopt and promulgate  
22 rules to provide for a uniform and efficient provider  
23 credentialing process. The [~~rules shall establish a single~~  
24 ~~credentialing application form~~] superintendent shall approve no  
25 more than two forms of application to be used for the

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1 credentialing of providers.

2 B. An insurer shall not require a provider to  
3 submit information not required by ~~[the uniform]~~ a  
4 credentialing application established pursuant to Subsection A  
5 of this section.

6 C. The provisions of this section apply equally to  
7 initial credentialing applications and applications for  
8 recredentialing.

9 D. The rules that the superintendent adopts and  
10 promulgates ~~[pursuant to Subsection A of this section]~~ shall  
11 require primary credential verification no more frequently than  
12 every three years and allow provisional credentialing for a  
13 period of one year.

14 E. Nothing in this section shall be construed to  
15 require an insurer to credential or provisionally credential a  
16 provider.

17 ~~[E.]~~ F. The rules that the superintendent adopts  
18 and promulgates ~~[pursuant to Subsection A of this section]~~  
19 shall establish that an insurer or an insurer's agent shall:

20 (1) assess and verify the qualifications of a  
21 provider applying to become a participating provider within  
22 forty-five calendar days of receipt of a complete credentialing  
23 application and issue a decision in writing to the applicant  
24 approving or denying the credentialing application; and

25 (2) within ten working days after receipt of a

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1 credentialing application, send a written notification, via  
2 United States certified mail, to the applicant requesting any  
3 information or supporting documentation that the insurer  
4 requires to approve or deny the credentialing application. The  
5 notice to the applicant shall include a complete and detailed  
6 description of all of the information or supporting  
7 documentation required and the name, address and telephone  
8 number of a person who serves as the applicant's point of  
9 contact for completing the credentialing application process.  
10 Any information required pursuant to this section shall be  
11 reasonably related to the information in the application.

12 ~~[F. Except as provided pursuant to Subsection G of~~  
13 ~~this section]~~

14 G. An insurer shall reimburse a provider for  
15 covered health care services ~~[in accordance with the carrier's~~  
16 ~~standard reimbursement rate]~~ for any claims from the provider  
17 that the insurer receives with a date of service more than  
18 forty-five calendar days after the date on which the insurer  
19 received a complete credentialing application for that  
20 provider; provided that:

21 (1) the provider has submitted a complete  
22 credentialing application and any supporting documentation that  
23 the insurer has requested in writing within the time frame  
24 established in Paragraph (2) of Subsection ~~[E]~~ F of this  
25 section;

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1           (2) the insurer has approved, or has failed to  
2 approve or deny, the applicant's complete credentialing  
3 application within the time frame established pursuant to  
4 Paragraph (1) of Subsection ~~[E]~~ F of this section;

5           (3) the provider has no past or current  
6 license sanctions or limitations, as reported by the New Mexico  
7 medical board or another pertinent licensing and regulatory  
8 agency, or by a similar out-of-state licensing and regulatory  
9 entity for a provider licensed in another state; and

10           (4) the provider has professional liability  
11 insurance or is covered under the Medical Malpractice Act.

12           ~~[G. In cases where]~~ H. A provider who, at the time  
13 services were rendered, was not employed by a practice or group  
14 that has contracted with the insurer to provide services at  
15 specified rates of reimbursement shall be paid by the insurer  
16 in accordance with the insurer's standard reimbursement rate.

17           I. A provider [is joining an existing] who, at the  
18 time services were rendered, was employed by a practice or  
19 group that has contracted [reimbursement rates with an insurer,  
20 the insurer shall pay the provider] with the insurer to provide  
21 services at specified rates of reimbursement shall be paid by  
22 the insurer in accordance with the terms of that contract.

23           ~~[H.]~~ J. The superintendent shall adopt and  
24 promulgate rules to provide for the resolution of disputes  
25 relating to reimbursement and credentialing arising in cases

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1 where credentialing is delayed beyond forty-five days after  
2 application.

3 ~~[F.]~~ K. An insurer shall reimburse a provider  
4 pursuant to ~~[the circumstances set forth in Subsection F]~~  
5 Subsections G, H and I of this section until the earlier of the  
6 following occurs:

7 (1) the insurer's approval or denial of the  
8 provider's complete credentialing application; or

9 (2) the passage of three years from the date  
10 the ~~[carrier]~~ insurer received the provider's complete  
11 credentialing application.

12 ~~[J.]~~ L. As used in this section:

13 (1) "credentialing" means the process of  
14 obtaining and verifying information about a provider and  
15 evaluating that provider when that provider seeks to become a  
16 participating provider; and

17 (2) "provider" means a physician or other  
18 individual licensed or otherwise authorized to furnish health  
19 care services in ~~[the]~~ a state."

20 **SECTION 3.** Section 59A-23-14 NMSA 1978 (being Laws 2015,  
21 Chapter 111, Section 2) is amended to read:

22 "59A-23-14. PROVIDER CREDENTIALING--REQUIREMENTS--  
23 DEADLINE.--

24 A. The superintendent shall adopt and promulgate  
25 rules to provide for a uniform and efficient provider

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1 credentialing process. The ~~[rules shall establish a single~~  
 2 ~~credentialing application form]~~ superintendent shall approve no  
 3 more than two forms of application to be used for the  
 4 credentialing of providers.

5 B. An insurer shall not require a provider to  
 6 submit information not required by ~~[the uniform]~~ a  
 7 credentialing application established pursuant to Subsection A  
 8 of this section.

9 C. The provisions of this section apply equally to  
 10 initial credentialing applications and applications for  
 11 recredentialing.

12 D. The rules that the superintendent adopts and  
 13 promulgates ~~[pursuant to Subsection A of this section]~~ shall  
 14 require primary credential verification no more frequently than  
 15 every three years and allow provisional credentialing for a  
 16 period of one year.

17 E. Nothing in this section shall be construed to  
 18 require an insurer to credential or provisionally credential a  
 19 provider.

20 ~~[E.]~~ F. The rules that the superintendent adopts  
 21 and promulgates ~~[pursuant to Subsection A of this section]~~  
 22 shall establish that an insurer or an insurer's agent shall:

23 (1) assess and verify the qualifications of a  
 24 provider applying to become a participating provider within  
 25 forty-five calendar days of receipt of a complete credentialing

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1 application and issue a decision in writing to the applicant  
2 approving or denying the credentialing application; and

3 (2) within ten working days after receipt of a  
4 credentialing application, send a written notification, via  
5 United States certified mail, to the applicant requesting any  
6 information or supporting documentation that the insurer  
7 requires to approve or deny the credentialing application. The  
8 notice to the applicant shall include a complete and detailed  
9 description of all of the information or supporting  
10 documentation required and the name, address and telephone  
11 number of a person who serves as the applicant's point of  
12 contact for completing the credentialing application process.  
13 Any information required pursuant to this section shall be  
14 reasonably related to the information in the application.

15 [~~F. Except as provided pursuant to Subsection G of~~  
16 ~~this section, an]~~

17 G. An insurer shall reimburse a provider for  
18 covered health care services [~~in accordance with the carrier's~~  
19 ~~standard reimbursement rate]~~ for any claims from the provider  
20 that the insurer receives with a date of service more than  
21 forty-five calendar days after the date on which the insurer  
22 received a complete credentialing application for that  
23 provider; provided that:

24 (1) the provider has submitted a complete  
25 credentialing application and any supporting documentation that

1 the insurer has requested in writing within the time frame  
2 established in Paragraph (2) of Subsection [E] F of this  
3 section;

4 (2) the insurer has approved, or has failed to  
5 approve or deny, the applicant's complete credentialing  
6 application within the time frame established pursuant to  
7 Paragraph (1) of Subsection [E] F of this section;

8 (3) the provider has no past or current  
9 license sanctions or limitations, as reported by the New Mexico  
10 medical board or another pertinent licensing and regulatory  
11 agency, or by a similar out-of-state licensing and regulatory  
12 entity for a provider licensed in another state; and

13 (4) the provider has professional liability  
14 insurance or is covered under the Medical Malpractice Act.

15 [~~G. In cases where a~~] H. A provider who, at the  
16 time services were rendered, was not employed by a practice or  
17 group that has contracted with the insurer to provide services  
18 at specified rates of reimbursement shall be paid by the  
19 insurer in accordance with the insurer's standard reimbursement  
20 rate.

21 I. A provider [is joining an existing] who, at the  
22 time services were rendered, was employed by a practice or  
23 group that has contracted [reimbursement rates with an insurer,  
24 the insurer shall pay the provider] with the insurer to provide  
25 services at specified rates of reimbursement shall be paid by

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1 the insurer in accordance with the terms of that contract.

2           ~~[H.]~~ J. The superintendent shall adopt and  
3 promulgate rules to provide for the resolution of disputes  
4 relating to reimbursement and credentialing arising in cases  
5 where credentialing is delayed beyond forty-five days after  
6 application.

7           ~~[I.]~~ K. An insurer shall reimburse a provider  
8 pursuant to ~~[the circumstances set forth in Subsection F]~~  
9 Subsections G, H and I of this section until the earlier of the  
10 following occurs:

11                   (1) the insurer's approval or denial of the  
12 provider's complete credentialing application; or

13                   (2) the passage of three years from the date  
14 the ~~[carrier]~~ insurer received the provider's complete  
15 credentialing application.

16           ~~[J.]~~ L. As used in this section:

17                   (1) "credentialing" means the process of  
18 obtaining and verifying information about a provider and  
19 evaluating that provider when that provider seeks to become a  
20 participating provider; and

21                   (2) "provider" means a physician or other  
22 individual licensed or otherwise authorized to furnish health  
23 care services in the state."

24           **SECTION 4.** Section 59A-46-54 NMSA 1978 (being Laws 2015,  
25 Chapter 111, Section 4) is amended to read:

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1 "59A-46-54. PROVIDER CREDENTIALING--REQUIREMENTS--  
2 DEADLINE.--

3 A. The superintendent shall adopt and promulgate  
4 rules to provide for a uniform and efficient provider  
5 credentialing process. The [~~rules shall establish a single~~  
6 ~~credentialing application form~~] superintendent shall approve no  
7 more than two forms of application to be used for the  
8 credentialing of providers.

9 B. A carrier shall not require a provider to submit  
10 information not required by [~~the uniform~~] a credentialing  
11 application established pursuant to Subsection A of this  
12 section.

13 C. The provisions of this section apply equally to  
14 initial credentialing applications and applications for  
15 recredentialing.

16 D. The rules that the superintendent adopts and  
17 promulgates [~~pursuant to Subsection A of this section~~] shall  
18 require primary credential verification no more frequently than  
19 every three years and allow provisional credentialing for a  
20 period of one year.

21 E. Nothing in this section shall be construed to  
22 require a carrier to credential or provisionally credential a  
23 provider.

24 [~~E.~~] F. The rules that the superintendent adopts  
25 and promulgates [~~pursuant to Subsection A of this section~~]

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1 shall establish that a carrier or a carrier's agent shall:

2 (1) assess and verify the qualifications of a  
3 provider applying to become a participating provider within  
4 forty-five calendar days of receipt of a complete credentialing  
5 application and issue a decision in writing to the applicant  
6 approving or denying the credentialing application; and

7 (2) within ten working days after receipt of a  
8 credentialing application, send a written notification, via  
9 United States certified mail, to the applicant requesting any  
10 information or supporting documentation that the carrier  
11 requires to approve or deny the credentialing application. The  
12 notice to the applicant shall include a complete and detailed  
13 description of all of the information or supporting  
14 documentation required and the name, address and telephone  
15 number of a person who serves as the applicant's point of  
16 contact for completing the credentialing application process.  
17 Any information required pursuant to this section shall be  
18 reasonably related to the information in the application.

19 ~~[F. Except as provided pursuant to Subsection G of~~  
20 ~~this section, a]~~

21 G. A carrier shall reimburse a provider for covered  
22 health care services [~~in accordance with the carrier's standard~~  
23 ~~reimbursement rate]~~ for any claims from the provider that the  
24 carrier receives with a date of service more than forty-five  
25 calendar days after the date on which the carrier received a

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1 complete credentialing application for that provider; provided  
2 that:

3 (1) the provider has submitted a complete  
4 credentialing application and any supporting documentation that  
5 the carrier has requested in writing within the time frame  
6 established in Paragraph (2) of Subsection [E] F of this  
7 section;

8 (2) the carrier has approved, or has failed to  
9 approve or deny, the applicant's complete credentialing  
10 application within the time frame established pursuant to  
11 Paragraph (1) of Subsection [E] F of this section;

12 (3) the provider has no past or current  
13 license sanctions or limitations, as reported by the New Mexico  
14 medical board or another pertinent licensing and regulatory  
15 agency, or by a similar out-of-state licensing and regulatory  
16 entity for a provider licensed in another state; and

17 (4) the provider has professional liability  
18 insurance or is covered under the Medical Malpractice Act.

19 ~~[G. In cases where a]~~ H. A provider who, at the  
20 time services were rendered, was not employed by a practice or  
21 group that has contracted with the carrier to provide services  
22 at specified rates of reimbursement shall be paid by the  
23 carrier in accordance with the carrier's standard reimbursement  
24 rate.

25 I. A provider [is joining an existing] who, at the

1 time services were rendered, was employed by a practice or  
2 group that has contracted [reimbursement rates with a carrier,  
3 the carrier shall pay the provider] with the carrier to provide  
4 services at specified rates of reimbursement shall be paid by  
5 the carrier in accordance with the terms of that contract.

6 [H.] J. The superintendent shall adopt and  
7 promulgate rules to provide for the resolution of disputes  
8 relating to reimbursement and credentialing arising in cases  
9 where credentialing is delayed beyond forty-five days after  
10 application.

11 [I.] K. A carrier shall reimburse a provider  
12 pursuant to [~~the circumstances set forth in Subsection F~~]  
13 Subsections G, H and I of this section until the earlier of the  
14 following occurs:

15 (1) the carrier's approval or denial of the  
16 provider's complete credentialing application; or

17 (2) the passage of three years from the date  
18 the carrier received the provider's complete credentialing  
19 application."

20 SECTION 5. Section 59A-47-49 NMSA 1978 (being Laws 2015,  
21 Chapter 111, Section 6) is amended to read:

22 "59A-47-49. PROVIDER CREDENTIALING--REQUIREMENTS--  
23 DEADLINE.--

24 A. The superintendent shall adopt and promulgate  
25 rules to provide for a uniform and efficient provider



1 credentialing process. The ~~[rules shall establish a single~~  
2 ~~credentialing application form]~~ superintendent shall approve no  
3 more than two forms of application to be used for the  
4 credentialing of providers.

5 B. A health care plan shall not require a provider  
6 to submit information not required by ~~[the uniform]~~ a  
7 credentialing application established pursuant to Subsection A  
8 of this section.

9 C. The provisions of this section apply equally to  
10 initial credentialing applications and applications for  
11 recredentialing.

12 D. The rules that the superintendent adopts and  
13 promulgates ~~[pursuant to Subsection A of this section]~~ shall  
14 require primary credential verification no more frequently than  
15 every three years and allow provisional credentialing for a  
16 period of one year.

17 E. Nothing in this section shall be construed to  
18 require a health care plan to credential or provisionally  
19 credential a provider.

20 ~~[E.]~~ F. The rules that the superintendent adopts  
21 and promulgates ~~[pursuant to Subsection A of this section]~~  
22 shall establish that a health care plan or a health care plan's  
23 agent shall:

24 (1) assess and verify the qualifications of a  
25 provider applying to become a participating provider within

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1 forty-five calendar days of receipt of a complete credentialing  
2 application and issue a decision in writing to the applicant  
3 approving or denying the credentialing application; and

4 (2) within ten working days after receipt of a  
5 credentialing application, send a written notification, via  
6 United States certified mail, to the applicant requesting any  
7 information or supporting documentation that the insurer  
8 requires to approve or deny the credentialing application. The  
9 notice to the applicant shall include a complete and detailed  
10 description of all of the information or supporting  
11 documentation required and the name, address and telephone  
12 number of a person who serves as the applicant's point of  
13 contact for completing the credentialing application process.  
14 Any information required pursuant to this section shall be  
15 reasonably related to the information in the application.

16 [~~F. Except as provided pursuant to Subsection G of~~  
17 ~~this section, a]~~

18 G. A health care plan shall reimburse a provider  
19 for covered health care services [~~in accordance with the~~  
20 ~~carrier's standard reimbursement rate]~~ for any claims from the  
21 provider that the insurer receives with a date of service more  
22 than forty-five calendar days after the date on which the  
23 [~~insurer]~~ health care plan received a complete credentialing  
24 application for that provider; provided that:

25 (1) the provider has submitted a complete

1 credentialing application and any supporting documentation that  
 2 the ~~[insurer]~~ health care plan has requested in writing within  
 3 the time frame established in Paragraph (2) of Subsection ~~[E]~~ F  
 4 of this section;

5 (2) the ~~[insurer]~~ health care plan has  
 6 approved, or has failed to approve or deny, the applicant's  
 7 complete credentialing application within the time frame  
 8 established pursuant to Paragraph (1) of Subsection ~~[E]~~ F of  
 9 this section;

10 (3) the provider has no past or current  
 11 license sanctions or limitations, as reported by the New Mexico  
 12 medical board or another pertinent licensing and regulatory  
 13 agency, or by a similar out-of-state licensing and regulatory  
 14 entity for a provider licensed in another state; and

15 (4) the provider has professional liability  
 16 insurance or is covered under the Medical Malpractice Act.

17 ~~[G. In cases where a]~~ H. A provider who was not,  
 18 at the time services were rendered, employed by a practice or  
 19 group that has contracted with the health care plan to provide  
 20 services at specified rates of reimbursement shall be paid by  
 21 the health care plan in accordance with the health care plan's  
 22 standard reimbursement rate.

23 I. A provider [is joining an existing] who was, at  
 24 the time services were rendered, employed by a practice or  
 25 group that has contracted ~~[reimbursement rates with a health~~

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1 ~~care plan, the insurer shall pay the provider]~~ with the health  
2 care plan to provide services at specified rates of  
3 reimbursement shall be paid by the health care plan in  
4 accordance with the terms of that contract.

5 ~~[H.]~~ J. The superintendent shall adopt and  
6 promulgate rules to provide for the resolution of disputes  
7 relating to reimbursement and credentialing arising in cases  
8 where credentialing is delayed beyond forty-five days after  
9 application.

10 ~~[I.]~~ K. A health care plan shall reimburse a  
11 provider pursuant ~~[to the circumstances set forth in Subsection~~  
12 ~~F)]~~ Subsections G, H and I of this section until the earlier of  
13 the following occurs:

14 (1) the insurer's approval or denial of the  
15 provider's complete credentialing application; or

16 (2) the passage of three years from the date  
17 the ~~[carrier]~~ health care plan received the provider's complete  
18 credentialing application."

19 **SECTION 6. TEMPORARY PROVISION.--**The superintendent of  
20 insurance shall promulgate rules to implement the provisions of  
21 this act no later than September 1, 2016.

22 **SECTION 7. APPLICABILITY.--**

23 A. The provisions of Section 1 of this act apply to  
24 claims submitted for payment on or after January 1, 2017.

25 B. The provisions of Sections 2 through 5 of this

1 act apply to applications for provider credentialing made on or  
2 after January 1, 2017.

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underscoring material = new  
~~[bracketed material] = delete~~