

1 SB88
2 164501-1
3 By Senator Dial
4 RFD: Health and Human Services
5 First Read: 03-MAR-15

2
3
4
5
6
7
8 SYNOPSIS: Under current law, a health insurer or
9 vendor may initiate or change the method of payment
10 to a health care provider to payment through a
11 credit card, exposing the health care provider to
12 unknown charges, without the health care provider
13 having actual prior knowledge of the credit card
14 payment method, or the language in the contract
15 that allowed the initiation of or change to a
16 credit card payment.

17 This bill would establish that any contract
18 between a health insurer or its contracted vendor
19 and a health care provider for the provision of
20 health care services to a plan enrollee shall not
21 contain restrictions on methods of payment from the
22 health insurer or vendor to the health care
23 provider in situations in which the only acceptable
24 payment method is a credit card payment.

25 This bill would establish that prior to
26 initiating payments, a health insurer or its

1 contracted vendor must properly notify the health
2 care provider.

3 This bill would establish that any clause
4 contained in a contract in violation of these
5 provisions shall be void.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to health care contracts; to add Section
12 27-1-17.1 to Title 27, Chapter 1, Code of Alabama 1975, to
13 provide that any contract issued, amended, or renewed on or
14 after July 1, 2015, between a health insurer or its contracted
15 vendor and a health care provider for the provision of health
16 care services to a plan enrollee shall not restrict payments
17 to only credit card payments; to provide that prior to
18 initiating or changing payments to a provider using electronic
19 funds transfer payments, to only credit card or virtual credit
20 card payments, a health insurer or its contracted vendor must
21 meet certain requirements to notify the health care provider
22 of all fees associated with a particular payment method,
23 provide clear instructions to health care provider as to how
24 to opt out of the payment method at any time following the
25 initial agreement to this payment method, and obtain written
26 consent from the health care provider; and to provide that any

1 clause in a contract in violation of the provisions of this
2 section shall be void.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 27-1-17.1 is added to Title 27,
5 Chapter 1, Code of Alabama 1975, to read as follows:

6 §27-1-17.1.

7 (a) This section shall be known as and may be cited
8 as the Transparency in Health Insurer Payment Transactions
9 Act.

10 (b) The Legislature finds and declares the
11 following:

12 (1) Despite the potential benefits associated with
13 electronic funds transfer (EFT) payments, many health care
14 providers are being subjected to fees associated with
15 electronic payment that essentially reduce their contracted
16 fee payment amounts.

17 (2) Some health care providers are being subjected
18 to additional percentage-based fees for Health Insurance
19 Portability and Accountability Act (HIPPA)-standard automated
20 clearinghouse (ACH) EFT payments when the only fee that should
21 be assessed with ACH EFT payments is a nominal banking fee.

22 (3) In recent years, many health insurers have
23 started paying health care providers through payer-issued
24 credit cards, often referred to as virtual or online credit
25 cards, thereby shifting the costs of transferring money
26 electronically from the health insurer to the health care
27 provider.

1 (4) Although a valid electronic alternative to paper
2 checks, the use of credit cards for payment requires health
3 care providers to manually enter payments into the providers'
4 own credit card processing systems.

5 (5) Processing through a credit card system often
6 comes at a significant cost to health care providers, as
7 payments are subject to interchange and transaction fees,
8 thereby reducing the agreed upon contractual fee amount for
9 the provided health care services.

10 (6) Health care providers are often unaware of these
11 high fees when accepting credit card payments.

12 (7) Health plan credit card payments do not offer
13 significant risk reduction for health care providers, but
14 nevertheless carry increased processing charges, unlike
15 patient credit card payments.

16 (8) Health insurers often receive cash-back
17 incentives from credit card companies for such transactions.

18 (c) As used in this section, the following terms
19 shall have the following meanings:

20 (1) CREDIT CARD PAYMENTS. A type of electronic funds
21 transfer in which the health insurer or its contracted vendor
22 sends credit card payment information and instructions to the
23 health care provider, who then processes the payments using
24 standard credit card technology. Credit card payments can
25 include virtual or online credit card payments, whereby no
26 physical credit card is presented to the health care provider

1 and the single-use credit card expires upon payment
2 processing.

3 (2) HEALTH CARE PROVIDER. For purposes of this
4 section, the term "health care provider" means: A physician as
5 defined under Section 34-24-50.1; other licensed health care
6 professionals as defined in Title 34; a hospital as defined in
7 Section 22-21-20; and a health care facility, or other
8 provider who or that is accredited, licensed, or certified and
9 who or that is performing within the scope of that
10 accreditation, license, or certification.

11 (3) HEALTH INSURER. An entity or person that offers
12 or administers a health insurance plan, coverage, or policy in
13 this state, or contracts with health care providers to furnish
14 specified health care services to enrollees covered under a
15 health insurance plan or policy. Health insurer also includes
16 any entity created under Article 9, Chapter 6, Title 22,
17 commencing with Section 22-6-150.

18 (4) HEALTH INSURANCE PLAN. Any hospital and medical
19 expense incurred policy, nonprofit health care service plan
20 contract, health maintenance organization subscriber contract,
21 or any other health care plan, policy, coverage, or
22 arrangement that pays for or furnishes medical or health care
23 services, whether by insurance or otherwise, offered in this
24 state.

25 (5) NOMINAL. A monetary amount equal to or less than
26 the bank fee associated with HIPPA-standard ACH electronic
27 funds transfer (EFT).

1 (d) A contract issued, amended, or renewed on or
2 after July 1, 2015, between a health insurer or its contracted
3 vendor and a health care provider for the provision of health
4 care services to a plan enrollee shall not contain
5 restrictions on methods of payment from the health insurer or
6 vendor to the health care provider in which the only
7 acceptable payment method is a credit card payment.

8 (e) Prior to initiating or changing payments to a
9 provider using electronic funds transfer payments, including
10 virtual credit card payments, a health insurer or its
11 contracted vendor must:

12 (1) Notify the provider of all fees associated with
13 a particular payment method;

14 (2) Provide clear instructions to the provider as to
15 how to opt out of the payment method at any time following the
16 initial agreement to this payment method; and

17 (3) Following completion of subdivisions (1) and
18 (2), obtain written consent from the health care provider for
19 the payment method.

20 (f) Health care provider consent in accordance with
21 subdivision (3) of subsection (e) need not be obtained prior
22 to each subsequent transaction, but is required for each new
23 type of electronic fund transfer payment initiated with a
24 health care provider.

25 (g) A health insurer or its contracted vendor shall
26 not impose any interchange, transaction, or processing fees,
27 or other charges, on the health care provider beyond a nominal

1 amount for receiving HIPPA-standard ACH electronic funds
2 transfer (EFT) payments.

3 (e) The provisions of this section cannot be waived
4 by contract, and any contractual clause in conflict with the
5 provisions of this section or that purport to waive any
6 requirements of this section are void.

7 Section 2. If any provision of this act is held by a
8 court to be invalid, such invalidity shall not affect the
9 remaining provisions of this act, and to this end the
10 provisions of this act are declared severable.

11 Section 3. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.