

Niki Thomson

From: Catherine O'Mara <catherine@nvdoctors.org>
Sent: Friday, December 20, 2019 12:58 PM
To: Carrie L. Embree
Cc: Jessica Ferrato; Jaron Hildebrand; Michael Willden
Subject: AB469 Regulations
Attachments: AB 469 DRAFT Regulations revised 12-09-19 ce (2) jlw edits.docx

Dear Carrie:

Thank you for all the work you are doing to develop the regulations on AB469. We know this is a major undertaking and we appreciate your willingness to work with us to ensure that the regulations are workable.

With the holidays coming up there may be some staff out of the office so I wanted to follow up with you today about where we are with the regulations/guidance on AB469. As we get closer to January 1, our doctors and their billing staff are getting very concerned about how to implement and operationalize AB469.

Can you tell us what is the status of emergency regulations or guidance? When should we expect to see those?

We are committed to working through the process as permanent regs are developed and adopted. In the meantime, however, we need to be able to tell our doctors how to prepare for January 1. To that end, we agree with the revisions proposed in the attached document drafted by Jim Wadhams and shared with us yesterday. I believe you have received these. NSMA and our physician colleagues strongly encourage you to adopt these into the emergency regulations and get them out as soon as possible.

Please let us know if you need any more information from us and if you have any information or recommendations that we can share with our physicians.

Again, thank you for your work on this very important regulation.

Sincerely,

Cat

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December 9, 2019

Revised Draft of Permanent Regulations Regarding AB 469, NRS 439

LCB File No. R101-19

AB 469

Notice

1. Notification by electronic or telephonic means to the point of contact registered on the Department's website or last accepted by the third party for billing questions shall be deemed proper notice under Section 14(2)(a) of AB 469.
2. Maintenance of regular business records showing notification was given shall be deemed proof of receipt.

Sec. 17:

Submission, contents and review of requests for arbitration for claims of less than \$5,000 for medically necessary emergency services.

1. An out-of-network provider requesting arbitration for claims of medically necessary emergency services must submit an application in the format specified in this section.
2. The request must be submitted to the Department within 30 business days from the date the third party refuses to pay the additional amount requested by the out-of-network provider or fails to pay that amount pursuant to AB 469, Sec. 17.3.
3. The Department will not accept applications requesting arbitration past 30 business days from the date the third party refuses to pay the additional amount requested by the out-of-network provider or fails to pay that amount pursuant to AB 469, Sec. 17. 3. and payment received will be considered payment in full.
4. An application requesting arbitration must be on the prescribed form by the Department and include the following information:
 - (a) Out-of-network provider contact information and location.
 - (b) Date of medically necessary emergency service(s).

- (c) Type of medically necessary emergency service(s) provided.
- (d) Type of provider of health care.
- (e) Specialty of provider of health care.
- (f) Third party contact information.
- (g) Type of third party.
- (h) Documentation of:
 - a. Date out-of-network provider received payment by the third party.
 - b. Amount of payment received.
 - c. Date out-of-network provider requested additional amount to be paid by the third party.
 - d. Additional amount requested by out-of-network provider.
 - e. ~~A representative sample of at least 3 fees received by the provider in the last 24 months for the same service, in the same region, from health plans in which the provider does not participate.~~
- 5. Within 5 business days after receipt of the application, the Department shall notify the out-of-network provider in writing of receipt of the application.
- 6. Within 15 business days after receipt of the application, the Department shall:
 - (a) Review the application and verify the information contained within; and
 - (b) Notify the out-of-network provider in writing if any section of the application is incomplete and/or request any additional information.
- 7. Within 5 business days of application approval, the Department shall provide in writing a list of 5 qualified State employees to complete the arbitration to the out-of-network provider and third party.

List of arbitrators, information requested by the arbitrator.

- 1. Within 10 business days from receipt of the list of arbitrators, the out-of-network provider and third party must select an arbitrator based on AB 469, Sec. 17. 4. and submit their selections in writing to the Department.
- 2. Within 5 business days after receiving the list of arbitrators from both the out-of-network provider and third party, the Department shall:
 - (a) If more than one arbitrator remains, randomly select an arbitrator from the remaining arbitrators on the list pursuant to AB 469, Sec 17. 4.
 - (b) Notify, in writing, the out-of-network provider and third party the name of the selected arbitrator.
- 3. The out-of-network provider and third party have 10 business days to submit in writing any relevant information ~~requested by the arbitrator~~ it deems relevant to support its position and to assist the arbitrator in making a determination.
- 4. Within 30 business days of receipt of requested information, the arbitrator will notify the out-of-network provider and third party of the decision as outlined in AB 469, Sec 17. 6.
- 5. If an out-of-network provider fails to provide information ~~requested by the arbitrator~~, the arbitrator may review the evidence and proceed to consider the matter and dispose of it on the basis of the evidence before the arbitrator.
- 6. If the third party fails to provide information requested by the arbitrator, the arbitrator may review the evidence and proceed to consider the matter on the basis of the evidence before the arbitrator and may require the third party to pay the requested additional amount by the out-of-network provider.

Request for arbitration for claims of \$5,000 or more for medically necessary emergency services.

For claims of \$5,000 or more, the out-of-network provider and third party are required to use the American Arbitration Association, JAMS or their successor organizations.

Sec. 18. 1.

Third party Election.

1. A third party that is not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 may choose at any time to make an election to participate in the provisions of AB 469 must submit an application in the format specified in this section to the Department.
2. An application of election must be on the form prescribed by the Department and include the following information:
 - (a) The name of the third party.
 - (b) Third party contact information.
 - (c) The type of third party.
 - (d) The date the election goes into effect.
3. A third party not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 that made an election to participate in AB 469 may choose anytime to withdraw the election, must submit an application in the format specified in this section to the Department a minimum of ~~30~~ 180 days prior to the effective date of such withdrawal.
4. An application for withdrawal of election must be on the form prescribed by the Department and include the following:
 - (a) The name of the third party.
 - (b) Third party contact information.
 - (c) The type of third party.
 - (d) The date the withdrawal goes into effect.
 - (e) The reason for withdrawal of election.

Reporting.

AB 469, Sec. 19. 2. (a) (b)

1. On or before December 31st of each year, a third party shall report requested information for the immediately preceding 12 months on the form prescribed by the Department and include the following:
 - (a) The name of the third party.
 - (b) Third party contact information.
 - (c) The type of third party.
 - (d) The number of disputed payments by out-of-network providers for medically necessary emergency services that were settled without arbitration.
 - (e) Types of provider of health care that settled disputed payments.
 - ~~(f) Amounts of settled payments.~~
 - ~~(g)~~ (f) Number of new contracts with providers of health care that provide medically necessary emergency services.
 - ~~(h)~~ (g) Types of provider of health care that entered into new contracts.
 - ~~(i)~~ (h) Number of terminated contracts with providers of health care that provide medically necessary emergency services.
 - ~~(j)~~ (i) Reasons for terminated contracts with providers of health care that provide medically necessary emergency services.

