Niki Thomson

From: Bill Welch <bill@nvha.net>
Sent: Thursday, October 31, 2019 2:00 PM
To: Carrie L. Embree
Cc: 'Jim Wadhams'; jessewadhams@blacklobello.law; 'Chris Bosse (Renown)'; Sarah Hunt
Subject: Template draft language for AB 469
Attachments: Proposed reg for AB 469 10.31.19 (003).docx

Importance: High

Carrie, hope all is well with you. Sorry this has taken so long but wanted to follow up with you as I committed to do at the 8/29/19 public workshop on AB469. At that time I had submitted comments on behalf of the Nevada Hospital Association members but promised to provide additional comments.

With that in mind attached you will find a mock up (template) of potential language that may be of help as you work to put together your draft regulation for AB469.

I look forward to seeing the state's final draft regulations on AB 469. I am available if you have any questions or can be of any assistance.

Thanks,
Bill

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Nevada Hospital Association

PROPOSED REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

LCB FILE NO. R XXX-XX

The following document is the initial draft regulation proposed by the agency submitted on 10-XX-2019

PROPOSED REGULATION OF THE DIVISION OF AGING AND DISABILITY SERVICES

AUTHORITY: NRS 439B.450 & AB 469 OF THE 2019 LEGISLATIVE SESSION

Italics: New proposed language

A REGULATION relating to health benefits covered by health plans issued in Nevada to Nevada residents; establishing a new benefit for persons insured under health plans covered by this act or which have chosen to be covered ("Plan/s"). Despite receiving care from a provider or a facility for medically necessary emergency services which is outside the Plan's network, the covered person will not be responsible for more than the in network deductible, copayment or coinsurance. This regulation establishes the specific persons who will be eligible for this benefit not provided by their contract and how their health plans will be identified. In the case of those plans not automatically covered, this regulation identifies when and how those plans must register its intent to have its covered persons included in the benefits of this act.

The regulation is intended to clarify that the covered person will incur the cost of the estimated deductible, copayment and coinsurance at the conclusion of treatment but that cost may be adjusted to reflect the patient's share of cost based on the final amount paid for services provided.

The regulation also provides that certain sensitive information is protected and not disclosed to the public or competitors.

Finally, the regulation gives clear direction on the information to be posted on the website of the Department to allow Plans to be identified and notified of matters covered by this act and regulation.

Section 1. Chapter 439B of NAC is hereby amended by adding thereto the provisions set forth in section 2 inclusive of this regulation.

Sec. 2

1. Pursuant to Section 11 of AB 469 a "third party" includes:

(a) A health benefit plan as defined in NRS 695G.019 which is authorized to do business and has issued a health benefit plan subject to regulation by the state of Nevada.
(b) Any other entity, not subject to regulation under Title 57, that elects to have this act apply to residents of the state of Nevada.
(c) The Public Employees Benefits Program
(d) Any entity excluded under Section 11 of AB 469 or not covered by subsections (a) and (b) above is not a third party for purposes of AB 469

Sec. 3

1. A person whose policy of health insurance is subject to the jurisdiction of another state as to terms, benefits or the manner of sale shall be deemed to be sold outside this State for purposes of AB 469.

Sec. 4. *An out-of-network provider or facility is entitled to be promptly paid a reasonable estimate of the in-network copayment, coinsurance and/or deductible based upon the services*

rendered. The patient's in-network share of cost may be adjusted if necessary, after final adjudication of the claim or invoice based on the patient's in-network health insurance plan design.

Sec. 5. *Notification*

1. Notification *by email or telephonic means to the contact provided on the website maintained by the Director under Section 8 (2)(c) below of the patient's name and member identification number shall be deemed proper notice under Section 14 subsection (2) (a) of AB 469.*
2. *If the third party is notified by the provider of care that the covered person has stabilized sufficiently for transfer, all responsibility for that patient becomes the obligation of the third party at the time it physically removes that patient or otherwise accepts the custody of that covered person.*
3. *If the third party does not accept responsibility for the transfer of the patient within 24 hours after being notified, the third party will be responsible for all charges incurred in caring for that covered person after the notice was sent.*
4. *If the provider of care or facility is unable to identify and notify the payer, the charges for the inpatient services rendered shall be resolved by the provisions of this act as a continuation of the medically necessary emergency services.*

Sec. 6. *Arbitration Panel*

1. *The Director of the Department of Health and Human Services (DHHS) or a designee of the Director shall maintain a website listing the organizations that have been approved for use as arbitrators or panels of arbitrators available to be utilized for disputes over the amount of money owed for medical necessary services covered by AB 469 including whether the services were medically necessary as defined by Sections 6 and 8.5 of AB 469.*
2. *No person is eligible to be listed on the roster of available persons to arbitrate that has not been approved by the State as being generally knowledgeable about AB 469, trained in the process of arbitration and proven to be competent, reliable and independent.*
3. *Approval of nationally recognized arbitration services shall include the same determination of competency and independence as would apply to individuals.*
4. *To the extent practicable those persons identified by the state as available for claims under $5000 should be made available for disputes over $5000.*

Sec. 7. *Arbitration Process*

1. *The arbitrator shall accept and consider from either party any information that party considers helpful to the arbitrator in choosing one of the two amounts in dispute. The arbitrator shall adopt either the offer made by the third party pursuant to Section 15(2) or 16(2) of AB 469 or the additional amount requested by the provider of health care or facility pursuant to 17(2) of AB 469. No other amount may be chosen*
2. *Unless requested by one of the parties, the arbitrator is not required to hold a formal hearing.*
3. *If a formal hearing is requested, the arbitrator shall hold that hearing in private allowing each side to make a brief presentation. The arbitrator shall render a decision to the parties within 30 days.*
4. *Under no circumstances shall the information supplied by one party be shared with the other party unless offered in a requested hearing before the arbitrator nor shall it be made public in any fashion.*
5. *Other than communication of the decision to the two parties, the decision as to the amount*

owed is confidential and shall not be public.

6. *The arbitrator shall report at least monthly to the Department as required in Section 19 of AB 469 without violating the confidentiality of the amount or the supporting information.*

Sec. 8.

1. *In addition to the information required by Section 19(1), pursuant to Section 19(2) all third parties and all providers or facilities that provide out of network emergency services shall report to the Department the number of incidents of out of network emergency services claimed or rendered for the preceding 12 months governed by this act.*
2. *The Director shall create and maintain the website required under Section 18(1), identifying each third party subject to this act.*
    a. *Such listing must include all insurers authorized to sell insurance in Nevada and their health plans approved by the Commissioner of Insurance or otherwise authorized for sale in this state.*
    b. *Such listing must also include all third-party benefit plans under Section 2 (1)(b) above which have filed by December 15th their annual election to accept the provisions of AB 469 for a period of one year commencing with January 1 of the ensuing year.*
    c. *Each third party identified in (a) or (b) above must provide for listing on the website an email address that will automatically confirm receipt and telephone number with continuous staffing so providers and facilities can obtain plan information and provide notices under this act.*

Sec. 9. *Nothing in this regulation shall prohibit any payer and any out of network provider or facility from mutually agreeing to any arrangement between themselves that does not expose the patient to any expense for covered medically necessary emergency services greater than the copayment, coinsurance or deductible required for such services provided by an in-network provider or facility.*