

REFERENCE TITLE: direct payments; providers; facilities; deductible

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SB 1284

Introduced by
Senators Barto, Lesko: Ward

AN ACT

AMENDING SECTIONS 32-3216 AND 36-437, ARIZONA REVISED STATUTES; RELATING TO
DIRECT PAYMENTS TO HEALTH CARE PROVIDERS AND FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-3216, Arizona Revised Statutes, is amended to
3 read:

4 32-3216. Health care providers; charges; public availability;
5 direct payment; notice; definitions

6 A. A health care provider must make available on request or online the
7 direct pay price for at least the twenty-five most commonly provided
8 services, if applicable, for the health care provider. The services may be
9 identified by a common procedural terminology code or by a plain-English
10 description. The direct pay prices must be updated at least annually and
11 must be based on the services from a twelve-month period that occurred within
12 the eighteen-month period preceding the annual update. The direct pay price
13 must be for the standard treatment provided for the service and may include
14 the cost of treatment for complications or exceptional treatment. Health
15 care providers who are owners or employees of a legal entity with fewer than
16 three licensed health care providers are exempt from the requirements of this
17 subsection.

18 B. Subsection A of this section does not apply to emergency services.

19 C. The health care services provided by health care providers in
20 veterans administration facilities, health facilities on military bases,
21 Indian health services hospitals and other Indian health service facilities,
22 tribal owned clinics, the Arizona state hospital and any health care facility
23 determined to be exempt pursuant to section 36-437, subsection D, are exempt
24 from the requirements and provisions of this section.

25 D. Subsection A of this section does not prevent a health care
26 provider from offering either additional discounts or additional lawful
27 health care services for an additional cost to a person or an employer paying
28 directly.

29 E. A health care provider is not required to report the direct pay
30 prices to a government agency or department or to a government-authorized or
31 government-created entity for review or filing. A government agency or
32 department or government-authorized or government-created entity may not
33 approve, disapprove or limit a health care provider's direct pay price for
34 services. A government agency or department or government-authorized or
35 government-created entity may not approve, disapprove or limit a health care
36 provider's ability to change the published or posted direct pay price for
37 services.

38 F. A health care system may not punish a person or employer for paying
39 directly for lawful health care services or a health care provider for
40 accepting direct payment from a person or employer for lawful health care
41 services.

42 G. Except as provided in subsection ~~J~~ K of this section, a health
43 care provider who receives direct payment from a person or employer for a
44 lawful health care service is deemed paid in full if the entire fee for the
45 service is paid and shall not submit a claim for payment or reimbursement for

1 the service to any health care system. This subsection does not prevent a
2 health care provider from pursuing a health care lien for customary charges
3 pursuant to title 33. This subsection does not affect the ability of a
4 health care provider to submit claims for the same service provided on other
5 occasions to the same or a different person if no direct payment occurs.
6 This subsection does not require a health care provider to refund or adjust
7 any capitated payment, bundled payment or other form of prepayment or global
8 payment made by a health care system to the health care provider for lawful
9 health care services to be provided by the health care provider for the
10 person who makes, or on whose behalf an employer makes, direct payment to the
11 health care provider.

12 H. Before a health care provider who is contracted as a network
13 provider for a health care system accepts direct payment from a person or an
14 employer, and the person is an enrollee of the same health care system, the
15 health care provider shall obtain the person's or employer's signature on a
16 notice in a form that is substantially similar to the following:

17 Important notice about direct payment
18 for your health care services

19 The Arizona Constitution permits you to pay a health care
20 provider directly for health care services. Before you make any
21 agreement to do so, please read the following important
22 information:

23 If you are an enrollee of a health care system (more
24 commonly referred to as a health insurance plan) and your health
25 care provider is contracted with the health insurance plan, the
26 following apply:

27 1. You may not be required to pay the health care
28 provider directly for the services covered by your plan, except
29 for cost share amounts that you are obligated to pay under your
30 plan, such as copayments, coinsurance and deductible amounts.

31 2. Your provider's agreement with the health insurance
32 plan may prevent the health care provider from billing you for
33 the difference between the provider's billed charges and the
34 amount allowed by your health insurance plan for covered
35 services.

36 3. If you pay directly for a health care service, your
37 health care provider will not be responsible for submitting
38 claim documentation to your health insurance plan for that
39 claim. Before paying your claim, your health insurance plan may
40 require you to provide information and submit documentation
41 necessary to determine whether the services are covered under
42 your plan.

43 4. If you do not pay directly for a health care service,
44 your health care provider may be responsible for submitting

1 claim documentation to your health insurance plan for the health
2 care service.

3 Your signature below acknowledges that you received this
4 notice before paying directly for a health care service.

5 I. A health care provider who receives direct payment for a lawful
6 health care service and who complies with subsection H of this section is not
7 responsible for submitting documentation of any kind for purposes of
8 reimbursement to any health care system for that claim if the failure to
9 submit such documentation does not conflict with the terms of any federal or
10 state contracts to which the health care system is a party and the health
11 care provider has agreed to serve patients under or with applicable state or
12 federal programs in which a health care provider and health care system
13 participate.

14 J. IF AN ENROLLEE PAYS THE DIRECT PAY PRICE TO A HEALTH CARE PROVIDER
15 FOR A LAWFUL HEALTH CARE SERVICE PURSUANT TO THE REQUIREMENTS OF THIS
16 SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED TO THE ENROLLEE'S
17 IN-NETWORK DEDUCTIBLE REGARDLESS OF WHETHER THE HEALTH CARE PROVIDER IS A
18 CONTRACTED NETWORK PROVIDER FOR THE ENROLLEE'S HEALTH CARE PLAN.

19 ~~J.~~ K. This section does not impair the provisions of a health care
20 system's private health care network provider contract, except that a health
21 care provider may accept direct payment from a person or employer or may
22 decline to bill the health care system directly for services paid directly by
23 a person or employer if the health care provider has complied with subsection
24 H of this section and the health care provider's receipt of direct payment
25 and the declination to bill the health care system do not conflict with the
26 terms of any federal or state contract to which the health care system is a
27 party and the health care provider has agreed to serve patients under or with
28 applicable state or federal programs in which both a health care provider and
29 health care system participate.

30 ~~K.~~ L. A health care provider who does not comply with the
31 requirements of this section commits unprofessional conduct. Any
32 disciplinary action taken by the health professional's licensing board may
33 not include revocation of the health care provider's license.

34 ~~L.~~ M. For the purposes of this section:

35 1. "Direct pay price" means the price that will be charged by a health
36 care provider for a lawful health care service, regardless of the health
37 insurance status of the person, if the entire fee for the service is paid in
38 full directly to a health care provider by the person, including the person's
39 health savings account, or by the person's employer and that does not
40 prohibit a provider from establishing a payment plan with the person paying
41 directly for services.

42 2. "Emergency services" means lawful health care services needed to
43 evaluate and stabilize an emergency medical condition as defined in 42 United
44 States Code section 1396u-2(B)(2)(C).

1 3. "Enrollee" means a person who is enrolled in a health care plan
2 provided by a health insurer.

3 4. "Health care plan" means a policy, contract or evidence of coverage
4 issued to an enrollee. Health care plan does not include limited benefit
5 coverage as defined in section 20-1137.

6 5. "Health care provider" means a person who is licensed pursuant to
7 chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

8 6. "Health care system" means a public or private entity whose
9 function or purpose is the management, processing or enrollment of
10 individuals or the payment, in full or in part, of health care services.

11 7. "Health insurer" means a disability insurer, group disability
12 insurer, blanket disability insurer, health care services organization,
13 hospital service corporation, medical service corporation or hospital and
14 medical service corporation as defined in title 20.

15 8. "Lawful health care services" means any health-related service or
16 treatment, to the extent that the service or treatment is permitted or not
17 prohibited by law or regulation, that may be provided by persons or
18 businesses otherwise permitted to offer the services or treatments.

19 9. "Punish" means to impose any penalty, surcharge or named fee with a
20 similar effect that is used to discourage the exercise of rights under this
21 section.

22 Sec. 2. Section 36-437, Arizona Revised Statutes, is amended to read:
23 36-437. Health care facilities; charges; public availability;
24 direct payment; notice; definitions

25 A. A health care facility with more than fifty inpatient beds must
26 make available on request or online the direct pay price for at least the
27 fifty most used diagnosis-related group codes, if applicable, for the
28 facility and at least the fifty most used outpatient service codes, if
29 applicable, for the facility. The services may be identified by a common
30 procedural terminology code or by a plain-English description. The health
31 care facility must update the direct pay prices at least annually based on
32 the services from a twelve-month period that occurred within the
33 eighteen-month period preceding the annual update. The direct pay price must
34 be for the standard treatment provided for the service and may include the
35 cost of treatment for complications or exceptional treatment.

36 B. A health care facility with fifty or fewer inpatient beds must make
37 available on request or online the direct pay price for at least the
38 thirty-five most used diagnosis-related group codes, if applicable, for the
39 facility and at least the thirty-five most used outpatient service codes if
40 applicable, for the facility. The services may be identified by a common
41 procedural terminology code or by a plain-English description. The health
42 care facility must update the direct pay prices at least annually based on
43 the services from a twelve-month period that occurred within the
44 eighteen-month period preceding the annual update. The direct pay price must

1 be for the standard treatment provided for the service and may include the
2 cost of treatment for complications or exceptional treatment.

3 C. Subsections A and B of this section do not apply if a discussion of
4 the direct pay price would be a violation of the federal emergency medical
5 treatment and labor act.

6 D. Veterans administration facilities, health facilities on military
7 bases, Indian health services hospitals and other Indian health services
8 facilities, tribal owned clinics and the Arizona state hospital are exempt
9 from the requirements and provisions of this section. If the director of the
10 Arizona department of health services determines that a health care facility
11 does not serve the general public, the health care facility shall be exempt
12 from the requirements and provisions of this section if the facility does not
13 serve the general public.

14 E. Subsections A and B of this section do not prevent a health care
15 facility from offering either additional discounts or additional lawful
16 health care services for an additional cost to a person or an employer paying
17 directly.

18 F. A health care facility is not required to report the direct pay
19 prices to a government agency or department or to a government-authorized or
20 government-created entity for review. A government agency or department or
21 government-authorized or government-created entity may not approve,
22 disapprove or limit a health care facility's direct pay price for services.
23 A government agency or department or government-authorized or
24 government-created entity may not approve, disapprove or limit a health care
25 facility's ability to change the published or posted direct pay price for
26 services.

27 G. A health care system may not punish a person or employer for paying
28 directly for lawful health care services or a health care facility for
29 accepting direct payment from a person or employer for lawful health care
30 services.

31 H. Except as provided in subsection ~~K~~ L of this section, a health
32 care facility that receives direct payment from a person or employer for a
33 lawful health care service is deemed paid in full if the entire fee for the
34 service is paid and shall not submit a claim for payment or reimbursement for
35 the service to any health care system. This subsection does not prevent a
36 health care facility from pursuing a health care lien for customary charges
37 pursuant to title 33. This subsection does not affect the ability of a
38 health care facility to submit claims for the same service provided on other
39 occasions to the same or a different person if no direct payment occurs.
40 This subsection does not require a health care facility to refund or adjust
41 any capitated payment, bundled payment or ~~any~~ other form of prepayment or
42 global payment made by a health care system to the health care facility for
43 lawful health care services to be provided by the health care facility for
44 the person who makes, or on whose behalf an employer makes, direct payment to
45 the health care facility.

1 I. Before a health care facility that is contracted as a network
2 provider for a health care system accepts direct payment from a person or an
3 employer, and the person is an enrollee of the same health care system, the
4 health care facility shall obtain the person's or employer's signature on a
5 notice in a form that is substantially similar to the following:

6 Important notice about direct payment
7 for your health care services

8 The Arizona Constitution permits you to pay a health care
9 facility directly for health care services. Before you make any
10 agreement to do so, please read the following important
11 information:

12 If you are an enrollee of a health care system (more
13 commonly referred to as a health insurance plan) and your health
14 care facility is contracted with the health insurance plan, the
15 following apply:

16 1. You may not be required to pay the health care
17 facility directly for the services covered by your plan, except
18 for cost share amounts that you are obligated to pay under your
19 plan, such as copayments, coinsurance and deductible amounts.

20 2. Your provider's agreement with the health insurance
21 plan may prevent the health care facility from billing you for
22 the difference between the facility's billed charges and the
23 amount allowed by your health insurance plan for covered
24 services.

25 3. If you pay directly for a health care service, your
26 health care facility will not be responsible for submitting
27 claim documentation to your health insurance plan for that
28 claim. Before paying your claim, your health insurance plan may
29 require you to provide information and submit documentation
30 necessary to determine whether the services are covered under
31 your plan.

32 4. If you do not pay directly for a health care service,
33 your health care facility may be responsible for submitting
34 claim documentation to your health insurance plan for the health
35 care service.

36 Your signature below acknowledges that you received this
37 notice before paying directly for a health care service.

38 J. A health care facility that receives direct payment for a lawful
39 health care service and that complies with subsection I of this section is
40 not responsible for submitting documentation of any kind for purposes of
41 reimbursement to any health care system for that claim if the failure to
42 submit such documentation does not conflict with the terms of any federal or
43 state contracts to which the health care system is a party and the health
44 care facility has agreed to serve patients under or with applicable state or

1 federal programs in which a health care facility and health care system
2 participate.

3 ~~K.~~ IF AN ENROLLEE PAYS THE DIRECT PAY PRICE TO A HEALTH CARE FACILITY
4 FOR A LAWFUL HEALTH CARE SERVICE PURSUANT TO THE REQUIREMENTS OF THIS
5 SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED TO THE ENROLLEE'S
6 IN-NETWORK DEDUCTIBLE REGARDLESS OF WHETHER THE HEALTH CARE FACILITY IS A
7 CONTRACTED NETWORK PROVIDER FOR THE ENROLLEE'S HEALTH CARE PLAN.

8 ~~K.~~ L. This section does not impair the provisions of a health care
9 system's private health care network provider contract, except that a health
10 care facility may accept direct payment from a person or employer or may
11 decline to bill the health care system directly for services paid directly by
12 a person or employer if the health care facility has complied with subsection
13 I of this section and the health care facility's receipt of direct payment
14 and the declination to bill the health care system do not conflict with the
15 terms of any federal or state contract to which the health care system is a
16 party and the health care facility has agreed to serve patients under or with
17 applicable state or federal programs in which a health care facility and
18 health care system participate.

19 ~~L.~~ M. This section may not prevent the ~~Arizona~~ department of health
20 services from performing an investigation of a health care facility under the
21 department's powers and duties as ~~defined~~ PRESCRIBED in THIS title ~~36~~. If a
22 health care facility fails to comply with this section, the penalty shall not
23 include the revocation of the license to deliver health care services.

24 ~~M.~~ N. For the purposes of this section:

25 1. "Direct pay price" means the entire price that will be charged by a
26 health care facility for a lawful health care service, regardless of the
27 health insurance status of the person, if the entire fee for the service is
28 paid in full directly to a health care facility by the person, including the
29 person's health savings account, or by the person's employer and that does
30 not prohibit a facility from establishing a payment plan with the person
31 paying directly for services.

32 2. "Enrollee" means a person who is enrolled in a health care plan
33 provided by a health insurer.

34 3. "Health care facility" means a hospital, outpatient surgical
35 center, health care laboratory, diagnostic imaging center or urgent care
36 center.

37 4. "Health care plan" means a policy, contract or evidence of coverage
38 issued to an enrollee. Health care plan does not include limited benefit
39 coverage as defined in section 20-1137.

40 5. "Health care provider" means a person who is licensed pursuant to
41 TITLE 32, chapter 7, 8, 13, 16, 17, 19 or 34 ~~of title 32~~.

42 6. "Health care system" means a public or private entity whose
43 function or purpose is the management, processing or enrollment of
44 individuals or the payment, in full or in part, of health care services.

1 7. "Health insurer" means a disability insurer, group disability
2 insurer, blanket disability insurer, health care services organization,
3 hospital service corporation, medical service corporation or hospital and
4 medical service corporation as defined in title 20.

5 8. "Lawful health care services" means any health-related service or
6 treatment, to the extent that the service or treatment is permitted or not
7 prohibited by law or regulation, that may be provided by persons or
8 businesses otherwise permitted to offer the services or treatments.

9 9. "Punish" means to impose any penalty, surcharge or named fee with a
10 similar effect that is used to discourage the exercise of rights under this
11 section.