



Sen. Ann Gillespie

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LRB101 04243 AMC 59544 a

1 AMENDMENT TO SENATE BILL 650

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 650 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Outpatient Dialysis Payer Transparency Act.

6 Section 5. Definitions. As used in this Act, unless the  
7 context requires otherwise:

8 "Financially interested outpatient dialysis provider"  
9 means an outpatient dialysis provider that receives a direct or  
10 indirect financial benefit from a third-party premium payment.

11 "Outpatient dialysis provider" means any professional  
12 person, organization, health facility, or other person or  
13 institution certified by the Centers for Medicare and Medicaid  
14 Services as an independent dialysis facility as described in  
15 Part 494 of Title 42 of the Code of Federal Regulations.

16 "Third-party premium payment" means any premium payment

1 for a health care plan or accident and health insurance plan  
2 made directly or indirectly by an outpatient dialysis provider  
3 or other third party, made indirectly through payments to the  
4 individual for the purpose of making health care plan premium  
5 payments or accident and health insurance premium payments, or  
6 provided to one or more intermediaries with the intention that  
7 the funds be used to make health care plan premium payments or  
8 accident and health insurance premium payments for the  
9 individuals.

10 Section 10. Third-party premium payments.

11 (a) A financially interested outpatient dialysis provider  
12 making third-party premium payments shall comply with all of  
13 the following requirements:

14 (1) It shall provide assistance for the full plan year  
15 and notify the enrollee prior to any open enrollment  
16 periods, if applicable, if financial assistance will be  
17 discontinued. Assistance may be discontinued at the  
18 request of an enrollee who obtains other health coverage,  
19 or if the enrollee dies during the plan year.

20 (2) If the financially interested outpatient dialysis  
21 provider provides coverage for an enrollee with end stage  
22 renal disease, the financially interested outpatient  
23 dialysis provider shall agree not to condition financial  
24 assistance on eligibility for, or receipt of, any surgery,  
25 transplant, procedure, drug, or device.

1           (3) It shall inform an applicant of financial  
2 assistance, and shall inform a recipient annually, of all  
3 available health coverage options, including, but not  
4 limited to, Medicare, Medicaid, individual market plans,  
5 and employer plans, if applicable.

6           (4) It shall agree not to steer, direct, or advise the  
7 patient into or away from a specific coverage program  
8 option, health care plan contract, or accident and health  
9 insurance plan contract.

10           (5) It shall agree that financial assistance shall not  
11 be conditioned on the use of a specific outpatient dialysis  
12 facility or other health care provider.

13           (b) A financially interested outpatient dialysis provider  
14 shall not make a third-party premium payment unless the  
15 financially interested outpatient dialysis provider:

16           (1) annually provides a statement to the health care  
17 plan or accident and health insurance plan that it meets  
18 the requirements set forth in subsection (a), as  
19 applicable; and

20           (2) discloses to the health care plan or accident and  
21 health insurance plan, before making the initial payment,  
22 the name of the enrollee for each health care plan contract  
23 or accident and health insurance plan contract on whose  
24 behalf a third-party premium payment described in this  
25 Section will be made.

1 Section 90. The Illinois Insurance Code is amended by  
2 adding Section 356z.33 as follows:

3 (215 ILCS 5/356z.33 new)

4 Sec. 356z.33. Third-party premium payments; determination  
5 of reimbursement.

6 (a) As used in this Section, unless the context requires  
7 otherwise:

8 "Financially interested outpatient dialysis provider"  
9 means an outpatient dialysis provider that receives a direct or  
10 indirect financial benefit from a third-party premium payment.

11 "Outpatient dialysis provider" means any professional  
12 person, organization, health facility, or other person or  
13 institution certified by the Centers for Medicare and Medicaid  
14 Services as an independent dialysis facility as described in  
15 Part 494 of Title 42 of the Code of Federal Regulations.

16 "Third-party premium payment" means any accident and  
17 health plan premium payment made directly or indirectly by an  
18 outpatient dialysis provider or other third party, made  
19 indirectly through payments to the individual for the purpose  
20 of making health care plan premium payments, or provided to one  
21 or more intermediaries with the intention that the funds be  
22 used to make health care plan premium payments for the  
23 individuals.

24 (b) If a financially interested outpatient dialysis  
25 provider makes a third-party premium payment to an accident and

1 health insurer on behalf of an enrollee, reimbursement to a  
2 financially interested outpatient dialysis provider for  
3 covered services provided shall be determined by the following:

4 (1) For a contracted financially interested outpatient  
5 dialysis provider that makes a third-party premium payment  
6 or has a financial relationship with the entity making the  
7 third-party premium payment, the amount of reimbursement  
8 for covered services that shall be paid to the financially  
9 interested outpatient dialysis provider on behalf of the  
10 enrollee shall be governed by the terms and conditions of  
11 the enrollee's accident and health insurance plan contract  
12 or the Medicare reimbursement rate, whichever is lower.  
13 Financially interested outpatient dialysis providers shall  
14 not bill the enrollee or seek reimbursement from the  
15 enrollee for any services provided, except for cost sharing  
16 pursuant to the terms and conditions of the enrollee's  
17 accident and health insurance plan contract. If an  
18 enrollee's contract imposes a coinsurance payment for a  
19 claim that is subject to this paragraph, the coinsurance  
20 payment shall be based on the amount paid by the accident  
21 and health insurance plan pursuant to this paragraph.

22 (2) For a noncontracting financially interested  
23 outpatient dialysis provider that makes a third-party  
24 premium payment or has a financial relationship with the  
25 entity making the third-party premium payment, the amount  
26 of reimbursement for covered services that shall be paid to

1 the financially interested outpatient dialysis provider on  
2 behalf of the enrollee shall be governed by the terms and  
3 conditions of the enrollee's accident and health insurance  
4 plan contract or the Medicare reimbursement rate,  
5 whichever is lower. Financially interested outpatient  
6 dialysis providers shall not bill the enrollee or seek  
7 reimbursement from the enrollee for any services provided,  
8 except for cost sharing pursuant to the terms and  
9 conditions of the enrollee's accident and health insurance  
10 plan contract. If an enrollee's contract imposes a  
11 coinsurance payment for a claim that is subject to this  
12 paragraph, the coinsurance payment shall be based on the  
13 amount paid by the accident and health insurance plan  
14 pursuant to this paragraph. A claim submitted to an  
15 accident and health insurance plan by a noncontracting  
16 financially interested outpatient dialysis provider may be  
17 considered an incomplete claim and contested by the  
18 accident and health insurance plan if the financially  
19 interested outpatient dialysis provider has not provided  
20 the information as required in subsection (b) of Section 10  
21 of the Outpatient Dialysis Payer Transparency Act.

22 (c) The following shall occur if an accident and health  
23 insurer subsequently discovers that a financially interested  
24 outpatient dialysis provider fails to provide disclosure  
25 pursuant to subsection (b) of Section 10 of the Outpatient  
26 Dialysis Payer Transparency Act:

1           (1) The accident and health insurer shall be entitled  
2           to recover 120% of the difference between any payment made  
3           to an outpatient dialysis provider and the payment to which  
4           the outpatient dialysis provider would have been entitled  
5           pursuant to subsection (b), including interest on that  
6           difference.

7           (2) The accident and health insurer shall notify the  
8           Department of Insurance of the amount by which the  
9           outpatient dialysis provider was overpaid and shall remit  
10           to the Department of Insurance any amount exceeding the  
11           difference between the payment made to the outpatient  
12           dialysis provider and the payment to which the outpatient  
13           dialysis provider would have been entitled pursuant to  
14           subsection (b), including interest on that difference that  
15           was recovered pursuant to paragraph (1).

16           (d) This Section does not affect a contracted payment rate  
17           for an outpatient dialysis provider who is not a financially  
18           interested outpatient dialysis provider.

19           (e) This Section does not give an insurer any additional  
20           ability to refuse to accept premium payments or to cancel or  
21           refuse to renew an existing enrollment or subscription,  
22           regardless of the source of payment.

23           Section 95. The Health Maintenance Organization Act is  
24           amended by changing Section 1-2 and by adding Sections 4-5.1 as  
25           follows:

1 (215 ILCS 125/1-2) (from Ch. 111 1/2, par. 1402)

2 Sec. 1-2. Definitions. As used in this Act, unless the  
3 context otherwise requires, the following terms shall have the  
4 meanings ascribed to them:

5 (1) "Advertisement" means any printed or published  
6 material, audiovisual material and descriptive literature of  
7 the health care plan used in direct mail, newspapers,  
8 magazines, radio scripts, television scripts, billboards and  
9 similar displays; and any descriptive literature or sales aids  
10 of all kinds disseminated by a representative of the health  
11 care plan for presentation to the public including, but not  
12 limited to, circulars, leaflets, booklets, depictions,  
13 illustrations, form letters and prepared sales presentations.

14 (2) "Director" means the Director of Insurance.

15 (3) "Basic health care services" means emergency care, and  
16 inpatient hospital and physician care, outpatient medical  
17 services, mental health services and care for alcohol and drug  
18 abuse, including any reasonable deductibles and co-payments,  
19 all of which are subject to the limitations described in  
20 Section 4-20 of this Act and as determined by the Director  
21 pursuant to rule.

22 (4) "Enrollee" means an individual who has been enrolled in  
23 a health care plan.

24 (5) "Evidence of coverage" means any certificate,  
25 agreement, or contract issued to an enrollee setting out the



1 coverage to which he is entitled in exchange for a per capita  
2 prepaid sum.

3 (5.5) "Financially interested outpatient dialysis  
4 provider" means an outpatient dialysis provider that receives a  
5 direct or indirect financial benefit from a third-party premium  
6 payment.

7 (6) "Group contract" means a contract for health care  
8 services which by its terms limits eligibility to members of a  
9 specified group.

10 (7) "Health care plan" means any arrangement whereby any  
11 organization undertakes to provide or arrange for and pay for  
12 or reimburse the cost of basic health care services, excluding  
13 any reasonable deductibles and copayments, from providers  
14 selected by the Health Maintenance Organization and such  
15 arrangement consists of arranging for or the provision of such  
16 health care services, as distinguished from mere  
17 indemnification against the cost of such services, except as  
18 otherwise authorized by Section 2-3 of this Act, on a per  
19 capita prepaid basis, through insurance or otherwise. A "health  
20 care plan" also includes any arrangement whereby an  
21 organization undertakes to provide or arrange for or pay for or  
22 reimburse the cost of any health care service for persons who  
23 are enrolled under Article V of the Illinois Public Aid Code or  
24 under the Children's Health Insurance Program Act through  
25 providers selected by the organization and the arrangement  
26 consists of making provision for the delivery of health care

1 services, as distinguished from mere indemnification. A  
2 "health care plan" also includes any arrangement pursuant to  
3 Section 4-17. Nothing in this definition, however, affects the  
4 total medical services available to persons eligible for  
5 medical assistance under the Illinois Public Aid Code.

6 (8) "Health care services" means any services included in  
7 the furnishing to any individual of medical or dental care, or  
8 the hospitalization or incident to the furnishing of such care  
9 or hospitalization as well as the furnishing to any person of  
10 any and all other services for the purpose of preventing,  
11 alleviating, curing or healing human illness or injury.

12 (9) "Health Maintenance Organization" means any  
13 organization formed under the laws of this or another state to  
14 provide or arrange for one or more health care plans under a  
15 system which causes any part of the risk of health care  
16 delivery to be borne by the organization or its providers.

17 (10) "Net worth" means admitted assets, as defined in  
18 Section 1-3 of this Act, minus liabilities.

19 (11) "Organization" means any insurance company, a  
20 nonprofit corporation authorized under the Dental Service Plan  
21 Act or the Voluntary Health Services Plans Act, or a  
22 corporation organized under the laws of this or another state  
23 for the purpose of operating one or more health care plans and  
24 doing no business other than that of a Health Maintenance  
25 Organization or an insurance company. "Organization" shall  
26 also mean the University of Illinois Hospital as defined in the

1 University of Illinois Hospital Act or a unit of local  
2 government health system operating within a county with a  
3 population of 3,000,000 or more.

4 (11.5) "Outpatient dialysis provider" means any  
5 professional person, organization, health facility, or other  
6 person or institution certified by the Centers for Medicare and  
7 Medicaid Services as an independent dialysis facility as  
8 described in Part 494 of Title 42 of the Code of Federal  
9 Regulations.

10 (12) "Provider" means any physician, hospital facility,  
11 facility licensed under the Nursing Home Care Act, or facility  
12 or long-term care facility as those terms are defined in the  
13 Nursing Home Care Act or other person which is licensed or  
14 otherwise authorized to furnish health care services and also  
15 includes any other entity that arranges for the delivery or  
16 furnishing of health care service.

17 (13) "Producer" means a person directly or indirectly  
18 associated with a health care plan who engages in solicitation  
19 or enrollment.

20 (14) "Per capita prepaid" means a basis of prepayment by  
21 which a fixed amount of money is prepaid per individual or any  
22 other enrollment unit to the Health Maintenance Organization or  
23 for health care services which are provided during a definite  
24 time period regardless of the frequency or extent of the  
25 services rendered by the Health Maintenance Organization,  
26 except for copayments and deductibles and except as provided in

1 subsection (f) of Section 5-3 of this Act.

2 (15) "Subscriber" means a person who has entered into a  
3 contractual relationship with the Health Maintenance  
4 Organization for the provision of or arrangement of at least  
5 basic health care services to the beneficiaries of such  
6 contract.

7 (16) "Third-party premium payment" means any health care  
8 plan premium payment made directly or indirectly by an  
9 outpatient dialysis provider or other third party, made  
10 indirectly through payments to the individual for the purpose  
11 of making health care plan premium payments, or provided to one  
12 or more intermediaries with the intention that the funds be  
13 used to make health care plan premium payments for the  
14 individuals.

15 (Source: P.A. 98-651, eff. 6-16-14; 98-841, eff. 8-1-14; 99-78,  
16 eff. 7-20-15.)

17 (215 ILCS 125/4-5.1 new)

18 Sec. 4-5.1. Third-party premium payments; determination of  
19 reimbursement.

20 (a) If a financially interested outpatient dialysis  
21 provider makes a third-party premium payment to a Health  
22 Maintenance Organization on behalf of an enrollee,  
23 reimbursement to a financially interested outpatient dialysis  
24 provider for covered services provided shall be determined by  
25 the following:

1           (1) For a contracted financially interested outpatient  
2           dialysis provider that makes a third-party premium payment  
3           or has a financial relationship with the entity making the  
4           third-party premium payment, the amount of reimbursement  
5           for covered services that shall be paid to the financially  
6           interested outpatient dialysis provider on behalf of the  
7           enrollee shall be governed by the terms and conditions of  
8           the enrollee's health care plan contract or the Medicare  
9           reimbursement rate, whichever is lower. Financially  
10           interested outpatient dialysis providers shall not bill  
11           the enrollee or seek reimbursement from the enrollee for  
12           any services provided, except for cost sharing pursuant to  
13           the terms and conditions of the enrollee's health care plan  
14           contract. If an enrollee's contract imposes a coinsurance  
15           payment for a claim that is subject to this paragraph, the  
16           coinsurance payment shall be based on the amount paid by  
17           the Health Maintenance Organization pursuant to this  
18           paragraph.

19           (2) For a noncontracting financially interested  
20           outpatient dialysis provider that makes a third-party  
21           premium payment or has a financial relationship with the  
22           entity making the third-party premium payment, the amount  
23           of reimbursement for covered services that shall be paid to  
24           the financially interested outpatient dialysis provider on  
25           behalf of the enrollee shall be governed by the terms and  
26           conditions of the enrollee's health care plan contract or

1       the Medicare reimbursement rate, whichever is lower.  
2       Financially interested outpatient dialysis providers shall  
3       not bill the enrollee or seek reimbursement from the  
4       enrollee for any services provided, except for cost sharing  
5       pursuant to the terms and conditions of the enrollee's  
6       health care plan contract. If an enrollee's contract  
7       imposes a coinsurance payment for a claim that is subject  
8       to this paragraph, the coinsurance payment shall be based  
9       on the amount paid by the Health Maintenance Organization  
10       pursuant to this paragraph. A claim submitted to a Health  
11       Maintenance Organization by a noncontracting financially  
12       interested outpatient dialysis provider may be considered  
13       an incomplete claim and contested by the Health Maintenance  
14       Organization if the financially interested outpatient  
15       dialysis provider has not provided the information as  
16       required in subsection (b) of Section 10 of the Outpatient  
17       Dialysis Payer Transparency Act.

18       (b) The following shall occur if a Health Maintenance  
19       Organization subsequently discovers that a financially  
20       interested outpatient dialysis provider fails to provide  
21       disclosure pursuant to subsection (b) of Section 10 of the  
22       Outpatient Dialysis Payer Transparency Act:

23               (1) The Health Maintenance Organization shall be  
24               entitled to recover 120% of the difference between any  
25               payment made to an outpatient dialysis provider and the  
26               payment to which the outpatient dialysis provider would

1 have been entitled pursuant to subsection (a), including  
2 interest on that difference.

3 (2) The Health Maintenance Organization shall notify  
4 the Department of Insurance of the amount by which the  
5 outpatient dialysis provider was overpaid and shall remit  
6 to the Department of Insurance any amount exceeding the  
7 difference between the payment made to the outpatient  
8 dialysis provider and the payment to which the outpatient  
9 dialysis provider would have been entitled pursuant to  
10 subsection (a), including interest on that difference that  
11 was recovered pursuant to paragraph (1).

12 (c) This Section does not affect a contracted payment rate  
13 for an outpatient dialysis provider who is not a financially  
14 interested outpatient dialysis provider.

15 (d) This Section does not give an insurer any additional  
16 ability to refuse to accept premium payments or to cancel or  
17 refuse to renew an existing enrollment or subscription,  
18 regardless of the source of payment.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.".