

111TH CONGRESS
1ST SESSION

H. R. 1384

To amend part B of title XVIII of the Social Security Act to remove limiting charges under the Medicare Program for non-participating physicians with beneficiary notice and to preempt State laws that prohibit balance billing.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2009

Mr. PRICE of Georgia introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend part B of title XVIII of the Social Security Act to remove limiting charges under the Medicare Program for non-participating physicians with beneficiary notice and to preempt State laws that prohibit balance billing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REMOVING LIMITATIONS ON BALANCE BILLING**

4 **WITH BENEFICIARY NOTICE.**

5 (a) IN GENERAL.—Section 1848(g) of the Social Se-
6 curity Act (42 U.S.C. 1395w–4(g)) is amended—

1 (1) in paragraph (1)(A), in the matter before
2 clause (i), by inserting “, subject to subparagraph
3 (D),” after “enrolled under this part”;

4 (2) in paragraph (1), by adding at the end the
5 following new subparagraph:

6 “(D) EXCEPTION.—Subparagraph (A)
7 shall not apply with respect to physicians’ serv-
8 ices furnished to an individual if the individual
9 furnishing such services provides the advance
10 notice of such non-participation and non-accept-
11 ance of assignment under paragraph (8).”;

12 (3) by adding at the end the following new
13 paragraph:

14 “(8) NOTICE OF NON-PARTICIPATION AND NON-
15 ACCEPTANCE OF ASSIGNMENT.—For purposes of
16 paragraph (1)(D), the advance notice of non-partici-
17 pation and non-acceptance of assignment shall be,
18 with respect to an item or service furnished under
19 this part by (or under the supervision of) a physi-
20 cian, a notice (that may be in the form of a posting
21 in a conspicuous place in a physician’s office or on
22 patient information forms) that is posted or other-
23 wise furnished in a manner so as to inform the indi-
24 vidual receiving the item or service that—

1 “(A) the physician furnishing (or super-
2 vising the furnishing of) the items or service is
3 not a participating physician and does not ac-
4 cept assignment with respect to the service; and

5 “(B) because of such non-acceptance, in
6 the case of physicians’ services furnished to an
7 individual, the charge imposed is not limited
8 and may exceed the limiting charge described in
9 paragraph (2).”.

10 (b) CONFORMING AMENDMENT TO PRIVATE CON-
11 TRACT PROVISIONS.—Section 1802 of such Act (42
12 U.S.C. 1395a) is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(6) EXCEPTION.—The previous provisions of
15 this subsection shall not apply to physicians’ services
16 furnished to an individual if the advance notice de-
17 scribed in section 1848(g)(8) has been provided.”.

18 (c) CONFORMING AMENDMENT TO PARTICIPATION
19 PROVISIONS.—Section 1842(h) of such Act (42 U.S.C.
20 1395u) is amended by adding at the end the following new
21 paragraph:

22 “(9) The previous provisions of this subsection, inso-
23 far as they limit the charges that a participating physician
24 may impose, shall not apply to physicians’ services fur-

1 nished to an individual if the advance notice described in
2 section 1848(g)(8) has been provided.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to services furnished on or after
5 the date of the enactment of this Act.

6 **SEC. 2. PREEMPTION OF STATE LAWS LIMITING CHARGES**
7 **FOR PHYSICIANS’ SERVICES.**

8 (a) **IN GENERAL.**—No State may impose a limit on
9 the amount of charges, in relation to recognized payment
10 amounts under any health plan or otherwise, a physician
11 (as defined in section 1861(r)(1) of the Social Security
12 Act) may impose for services furnished by the physician
13 and any such limit is hereby preempted.

14 (b) **STATE.**—In this section, the term “State” in-
15 cludes the District of Columbia, Puerto Rico, the Virgin
16 Islands, Guam, and American Samoa.

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