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BULLETIN 11-08

Date: May 2, 2011
To: Insurers and Nonprofit Health Service Plans
Re: Assignment of Benefits to Nonpreferred Providers—Notice of Proposed Regulations—COMAR 31.10.41

The purpose of this bulletin is to notify insurers and nonprofit health service plans of proposed regulations that have been submitted for publication as *COMAR 31.10.41 Assignment of Benefits to Nonpreferred Providers*. These regulations are scheduled to be published in the Maryland Register on June 3, 2011.

Chapter 537, Acts of 2010, which becomes effective July 1, 2011, added §§14-205.2 and 14-205.3 to the Insurance Article. Both of these Sections require the Commissioner to adopt regulations to implement these new provisions dealing with assignment of benefits to nonpreferred providers under preferred provider insurance policies.

To assist insurers and nonprofit health service plans in their preparation to comply with the requirements of these proposed regulations, we are attaching a copy of the draft regulations to this bulletin.

Questions about this bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

Signature on file with original

Brenda A. Wilson
Associate Commissioner
Life and Health Section

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH GENERAL

Chapter 41 Assignment of Benefits to Nonpreferred Providers

Authority: Insurance Article, §§2-109, 14-205.2 and 14-205.3, Annotated Code of Maryland

.01 Applicability.

This chapter applies to preferred provider insurance policies offered by carriers under insured policies or contracts that are issued, renewed or delivered in the State on or after July 1, 2011.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Allowed amount" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (2) "Assignment of benefits" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (3) "Carrier" means an insurer or nonprofit health service plan.
- (4) "Covered service" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (5) "Hospital-based physician" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland and does not include an on-call physician.
- (6) "Insured" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (7) "Insurer" has the meaning stated in Insurance Article, §1-101, Annotated Code of Maryland.
- (8) "Nonpreferred provider" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (9) "Nonprofit health service plan" means a person who has a certificate of authority to operate as a nonprofit health service plan in Maryland.
- (10) "On-call physician" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (11) "Preferential basis" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (12) "Preferred provider" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.
- (13) "Preferred provider insurance policy" means a contract issued or delivered in the State under which health care services furnished by a preferred provider are paid on a preferential basis.
- (14) "Provider" has the meaning stated in Insurance Article, §14-201, Annotated Code of Maryland.

.03 Assignment of Benefits--On-Call Physicians.

A. This regulation applies to an on-call physician who provides health care services in a hospital to unassigned patients at the request of a hospital or hospital emergency department as a result of the physician being in an on-call status.

B. A nonpreferred provider who is an on-call physician may accept an assignment of benefits under a preferred provider insurance policy.

C. A nonpreferred provider who is an on-call physician and accepts an assignment of benefits under a preferred provider insurance policy shall:

- (1) Accept the carrier's allowed amount as payment in full for the covered services provided; and
- (2) Collect or attempt to collect from the insured only the monies for the items identified in Insurance Article, §14-205.2 (b), Annotated Code of Maryland.

D. A nonpreferred provider who is an on-call physician and who accepts assignment of benefits shall:

- (1) Submit the uniform claim form required by COMAR 31.10.11.03 and indicate acceptance of assignment of benefits in box 27 of the CMS 1500 form, or its successor to satisfy the nonpreferred provider disclosure requirements; and

(2) Designate CPT code 99026, or its successor, on the uniform claim form.

E. A carrier shall:

- (1) Accept as evidence that the nonpreferred provider who is an on-call physician obtained an assignment of benefits from an insured if the nonpreferred provider submits the uniform claim form required by COMAR 31.10.11.03 and indicates acceptance of assignment of benefits in box 27 of the CMS 1500 form, or its successor; and
- (2) Reimburse a nonpreferred provider an on-call physician who has accepted an assignment of benefits in accordance with the provisions in Insurance Article, §14-205.2 (c), Annotated Code of Maryland.

.04 Assignment of Benefits--Hospital-Based Physicians.

A. This regulation applies to a hospital-based physician who is under contract to provide health care services to patients in a hospital in one of the following medical specialties:

- (1) Anesthesiology;
- (2) Emergency medicine

- (3) Hospitalist;
- (4) Intensivist;
- (5) Neonatology;
- (6) Pathology;
- (7) Radiology; or
- (8) any other medical specialty in which a hospital-based physician is under contract with a hospital to provide health care services to patients in a hospital.

C. A nonpreferred provider who is a hospital-based physician may accept an assignment of benefits under a preferred provider insurance policy.

D. A nonpreferred provider who is a hospital-based physician and accepts an assignment of benefits under a preferred provider insurance policy shall:

- (1) Accept the carrier's allowed amount as payment in full; and
- (2) Collect or attempt to collect from the insured only the monies for the items identified in Insurance Article, §14-205.2 (b), Annotated Code of Maryland.

E. A nonpreferred provider who is a hospital-based physician shall submit the uniform claim form required by COMAR 31.10.11.03 and indicate acceptance of assignment of benefits in box 27 of the CMS 1500 form to satisfy the nonpreferred provider requirements.

F. A carrier shall:

- (1) Accept as evidence that the nonpreferred provider who is a hospital-based physician obtained an assignment of benefits from an insured if the nonpreferred provider submits the uniform claim form required by COMAR 31.10.11.03 and indicates acceptance of assignment of benefits in box 27 of the CMS 1500 form, or its successor; and
- (2) Reimburse a nonpreferred provider who is a hospital-based physician who has accepted an assignment of benefits in accordance with the provisions in Insurance Article, §14-205.2 (c), Annotated Code of Maryland.

.05 Assignment of Benefits--Nonpreferred Providers.

A. This regulation applies to carriers who receive claims for services provided by physicians who are nonpreferred providers but are not on-call physicians or hospital-based physicians.

B. A carrier shall permit a nonpreferred provider to accept an assignment of benefits under a preferred provider insurance policy offered by the carrier.

C. A carrier that receives a claim for services provided by a nonpreferred provider who accepts an assignment of benefits under a preferred provider insurance policy shall pay the provider directly if the provider:

- (1) Provides a copy of the disclosure set forth in Regulation .06 of this chapter to the insured prior to performing a health care service; and
- (2) Submits a copy of the signed disclosure set forth in Regulation .06 of this chapter to the carrier as an attachment to the uniform claims form adopted by the Commissioner under COMAR 31.10.11.03.

D. If the nonpreferred provider elects not to accept an assignment of benefits under a preferred provider insurance policy, the carrier shall provide the nonpreferred provider with the information specified in Insurance Article, §14-205.3 (c), Annotated Code of Maryland.

.06 Required Disclosure for Nonpreferred Providers Seeking Assignment of Benefits.

A. Except for a nonpreferred provider who is an on-call physician or a hospital-based physician, a nonpreferred provider shall provide a printed copy of the disclosure found in §B of this regulation to each patient or patient's designee or representative on each date of service in order to qualify for an assignment of benefits under a preferred provider insurance policy as required under Regulation .05 of this chapter.

B. The disclosure text required by §A of this regulation shall be printed in at least 12 point type and shall read as follows:

"IMPORTANT NOTICE REGARDING YOUR HEALTH INSURANCE

Your doctor is not a part of your health insurer's network. You may pay more for the services provided by your doctor because:

- (1) Your doctor's charge may be higher than the amount your health insurer will pay and, if so, you may be required to pay the difference; and
- (2) Your coinsurance, deductible and out-of-pocket maximum may be higher because your doctor is not in your health insurer's network.

Your doctor will provide you with the following information to help you understand what you will have to pay for the services you will receive from you doctor:

- (1) An estimate of the cost of the services;
- (2) Any payment terms your doctor offers to help you pay for these services; and
- (3) Whether your doctor will charge you interest on any unpaid balance.

I, [patient's name] _____ received the information above and authorize my health insurer to reimburse my doctor directly for the services provided [today's date] _____."