

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2125
99TH GENERAL ASSEMBLY

5866H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 103, RSMo, by adding thereto one new section relating to the right to shop act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 103, RSMo, is amended by adding thereto one new section, to be
2 known as section 103.185, to read as follows:

**103.185. 1. This section shall be known and may be cited as the “Right to Shop
2 Act”.**

3 2. As used in this section, the following terms shall mean:

**4 (1) “Allowed amount”, the contractually agreed upon amount paid by a carrier to
5 a health care provider participating in the carrier's network or the amount the health plan
6 is required to pay under the health plan policy for out-of-network covered benefits
7 provided to the patient;**

8 (2) “Health care provider”, as such term is defined in section 376.1350;

9 (3) “Health carrier” or “carrier”, as such term is defined in section 376.1350;

**10 (4) “Health plan”, the Missouri consolidated health care plan (MCHCP) or a health
11 care plan offered by the department of transportation or department of conservation;**

12 (5) “Patient”, any individual covered by a health plan, as defined in this section;

**13 (6) “Program”, the shared savings incentive pilot program established by a health
14 plan under this section;**

**15 (7) “Shoppable health care service”, a health care service for which a carrier offers
16 a shared savings incentive payment under the program established by this section. A
17 shoppable health care service includes, but is not limited to, health care services in the
18 following categories:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 19 **(a) Radiology and imaging services; and**
20 **(b) Inpatient and outpatient surgical procedures.**

21

22 **This list may be expanded by the health plan.**

23 **3. (1) Prior to a nonemergency admission, procedure, or service and upon request**
24 **by a patient or prospective patient, a health care provider within the patient's or**
25 **prospective patient's insurer network shall, within two business days, disclose the allowed**
26 **amount of the nonemergency admission, procedure, or service, including the amount for**
27 **any facility fees required.**

28 **(2) Prior to a nonemergency admission, procedure, or service and upon request by**
29 **a patient or prospective patient, a health care provider outside the patient's or prospective**
30 **patient's insurer network shall, within two business days, disclose the amount that shall**
31 **be charged for the none mergency admission, procedure, or service, including the amount**
32 **for any facility fees required.**

33 **(3) If a health care provider is unable to quote a specific amount under subdivision**
34 **(1) or (2) of this subsection in advance due to the health care provider's inability to predict**
35 **the specific treatment or diagnostic code, the health care provider shall disclose what is**
36 **known for the estimated amount for a proposed nonemergency admission, procedure, or**
37 **service, including the amount for any facility fees required. A health care provider shall**
38 **disclose the incomplete nature of the estimate and inform the patient or prospective patient**
39 **of his or her ability to obtain an updated estimate once additional information is**
40 **determined.**

41 **(4) If a patient or prospective patient is covered by insurance, a health care**
42 **provider that participates in a carrier's network shall, upon request of a patient or**
43 **prospective patient, provide, based on the information available to the health care provider**
44 **at the time of the request, sufficient information regarding the proposed nonemergency**
45 **admission, procedure, or service for the patient or prospective patient to receive a cost**
46 **estimate from his or her insurance carrier to identify out-of-pocket costs, which could be**
47 **through an applicable toll-free telephone number or website. A health care provider may**
48 **assist a patient or prospective patient in using a carrier's toll-free number and website.**

49 **4. Each carrier shall establish an interactive mechanism on its publicly accessible**
50 **website that enables an enrollee to request and obtain from the carrier information on the**
51 **payments made by the carrier to network providers for health care services. The**
52 **interactive mechanism shall allow an enrollee seeking information about the cost of a**
53 **particular health care service to compare costs among network providers as established in**
54 **this section.**

55 **5. (1) Within two business days of an enrollee's request, a carrier shall provide a**
56 **good faith estimate of the amount the enrollee shall be responsible to pay out-of-pocket for**
57 **a proposed nonemergency procedure or service that is a medically necessary, covered**
58 **benefit from a carrier's network provider, including any co-payment, deductible,**
59 **coinsurance, or other out-of-pocket amount for any covered benefit based on the**
60 **information available to the carrier at the time the request is made.**

61 **(2) Nothing in this section shall prohibit a carrier from imposing cost-sharing**
62 **requirements disclosed in the enrollee's certificate of coverage for unforeseen health care**
63 **services that arise out of the nonemergency procedure or service or for a procedure or**
64 **service provided to an enrollee that was not included in the original estimate.**

65 **(3) The carrier shall notify the enrollee that these are estimated costs and that the**
66 **actual amount the enrollee shall be responsible to pay may vary due to unforeseen services**
67 **that arise out of the proposed nonemergency procedure or service.**

68 **6. Each health plan shall develop and implement a pilot program that provides**
69 **incentives for enrollees who enroll in a shoppable health care services program. The pilot**
70 **program shall operate for no less than five years.**

71 **(1) Incentives may be calculated as a percentage of the difference in price, as a flat**
72 **dollar amount, or by some other reasonable methodology.**

73 **(2) The incentive program shall provide enrollees with an incentive for choosing**
74 **a lower cost provider.**

75 **7. Each health plan shall make the incentive program available as a component of**
76 **all health plans offered by the health plan in this state. Annually, at enrollment or renewal,**
77 **each health plan shall provide notice about the availability of the program to any enrollee**
78 **who is enrolled in a health plan eligible for the program.**

79 **8. If an enrollee elects to receive a shoppable health care service from an**
80 **out-of-network provider that results in a shared savings incentive payment, the carrier**
81 **shall apply the amount paid for the shoppable health care service toward the enrollee's**
82 **member cost sharing as specified in the enrollee's health plan.**

83 **9. Annually, each health plan shall file with the general assembly for the most**
84 **recent calendar year the total number of shared savings incentive payments made under**
85 **this section, the use of shoppable health care services by category of service for which**
86 **shared savings incentives were made, the total payments made to enrollees, the average**
87 **amount of incentive payments made by service for such transactions, the total savings**
88 **achieved below the average prices by service for such transactions, and the total number**
89 **and percentage of the health plan's enrollees who participated in such transactions.**

90 **10. Any health plan may adopt rules as necessary to implement the provisions of**
91 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
92 **is created under the authority delegated in this section shall become effective only if it**
93 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
94 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
95 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
96 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
97 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2018,**
98 **shall be invalid and void.**

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