OPLA Bill Analysis
Joint Standing Committee on Health Coverage, Insurance and Financial Services
Legislative Analyst: Colleen McCarthy Reid, Esq.
April 29, 2021

LD 1341, An Act To Protect Medicare Beneficiaries from Surprise Medical Billing

SUMMARY:

This bill prohibits physicians from charging or collecting from Medicare beneficiaries any amount in excess of the reasonable charge for a service, procedure or treatment paid to that physician under the Medicare program. The bill also requires physicians to post a notice of these requirements in the physician's office. The bill also provides authorization for individuals to file a complaint with the Board of Licensure in Medicine concerning any violation.

TESTIMONY: Written testimony can be found at this link

LD 1341, An Act To Protect Medicare Beneficiaries from Surprise Medical Billing

ISSUES FOR CONSIDERATION:

1. As explained by sponsor and proponent at hearing, the intent is to prohibit excess charges from being imposed on Medicare beneficiaries by physicians for services covered under Medicare Part B. Current federal regulations prohibit physicians that accept Medicare assignment from billing for excess charges, but those physicians that do not accept assignment may bill up to 15%. National data demonstrates that 96% of physicians participate in Medicare and accept assignment. Further, there are 2 standardized Medicare supplement policies that provide coverage for excess charges; Medicare Advantage (Part C) are also available that prohibit balance billing.

2. There are 8 states with laws that address excess charges in some manner: OH, NY, PA, MN, MA, CT, VT, and RI. See examples below.

- Rhode Island law makes agreeing to treat a Medicare beneficiary and then charging or collecting any amount in excess of the amount permitted by Medicare "unprofessional conduct" under its physician licensing provisions;
- Massachusetts law requires that a physician, as a condition of granting or renewing a certificate of registration, a physician agreeing to treat a Medicare beneficiary must also agree not to charge or collect any amount in excess of the amount permitted by Medicare
- Vermont law prohibits balance billing except under certain conditions and unless Medicare beneficiary agrees to balance billing; and
- Connecticut law requires physicians to disclose prior to delivering services whether the physician accepts Medicare assignment.

LD 1341, An Act To Protect Medicare Beneficiaries from Surprise Medical Billing

ISSUES FOR CONSIDERATION (cont'd):

3. If move forward, consider technical changes to clarify intent to apply to non-participating providers and to Part B excess charges? As drafted, definition of "balance billing" could be interpreted to prohibit a physician from charging allowable copayments and deductibles.

4. Consider notice provision only as an alternative?

5. Consider that bill as drafted applies only to allopathic and osteopathic physicians? Are there other types of providers that should be included?

FISCAL INFORMATION:

Additional costs to the licensing boards to implement the requirements of the bill can be absorbed within existing budgeted resources.