

House Bill 818

By: Representatives Hawkins of the 27th, Smith of the 134th, Newton of the 123rd, Cooper of the 43rd, Hugley of the 136th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to provide that a health care provider shall choose the method by
3 which such provider shall be reimbursed by an insurer for health care services performed;
4 to provide for definitions; to provide disclosure requirements for insurers; to provide
5 enforcement powers for violations; to provide for related matters; to provide an effective
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
10 generally, is amended by adding a new Code section to read as follows:

11 "33-24-59.23

12 (a) The General Assembly finds and declares that:

13 (1) Despite the potential benefits associated with electronic funds transfer payments,
14 many health care providers are being subjected to fees associated with electronic
15 payments that essentially reduce their contracted fee payment amounts;

16 (2) Some health care providers are being subjected to additional percentage based fees
17 for federal Health Insurance Portability and Accountability Act standard automated
18 clearing-house electronic funds transfer payments when the only fee that should be
19 assessed with such payments is a nominal banking fee;

20 (3) In recent years, many health insurers have started paying health care providers
21 through payor issued credit cards, often referred to as virtual or online credit cards,
22 thereby shifting the costs of transferring money electronically from the health insurer to
23 the health care provider;

24 (4) Although a valid electronic alternative to paper checks, the use of credit cards for
25 payment requires health care providers to manually enter payments into their own credit
26 card processing systems;

27 (5) Processing through a credit card system often comes at a significant cost to health
 28 care providers, as payments are subject to interchange and transaction fees, thereby
 29 reducing the agreed-upon contractual fee amount for the provided health care services;

30 (6) Health care providers are often unaware of these high fees when accepting credit card
 31 payments;

32 (7) Health plan credit card payments do not offer significant risk reduction for health
 33 care providers but nevertheless carry increased processing charges, unlike patient credit
 34 card payments; and

35 (8) Health insurers often receive cash-back incentives from credit card companies for
 36 such transactions.

37 (b) As used in this chapter, the term:

38 (1) 'Care management organization' means an entity that is organized for the purpose of
 39 providing or arranging health care, which has been granted a certificate of authority by
 40 the Commissioner as a health maintenance organization pursuant to Chapter 21 of this
 41 title, and which has entered into a contract with the Department of Community Health to
 42 provide or arrange health care services on a prepaid, capitated basis to members.

43 (2) 'Credit card payment' means a type of electronic funds transfer in which a health
 44 insurance plan or health insurer or its contracted vendor issues a single-use series of
 45 numbers associated with the payment of health care services performed by a health care
 46 provider and chargeable to a predetermined dollar amount, whereby the health care
 47 provider is responsible for processing the payment by a credit card terminal or Internet
 48 portal. Such term shall include virtual or online credit card payments, whereby no
 49 physical credit card is presented to the health care provider and the single-use credit card
 50 expires upon payment processing.

51 (3) 'Electronic funds transfer' means an electronic funds transfer through the federal
 52 Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, standard
 53 automated clearing-house network.

54 (4) 'Health care provider' means any physician, dentist, podiatrist, pharmacist,
 55 optometrist, psychologist, registered optician, licensed professional counselor, physical
 56 therapist, chiropractor, hospital, or other entity or person that is licensed or otherwise
 57 authorized in this state to furnish health care services.

58 (5) 'Health care services' means the examination or treatment of persons for the
 59 prevention of illness or the correction or treatment of any physical or mental condition
 60 resulting from illness, injury, or other human physical problem and includes but is not
 61 limited to:

62 (A) Hospital services which include the general and usual care, services, supplies, and
 63 equipment furnished by hospitals;

- 64 (B) Medical services which include the general and usual services and care rendered
 65 and administered by doctors of medicine, doctors of dental surgery, and doctors of
 66 podiatry; and
- 67 (C) Other health care services which include appliances and supplies; nursing care by
 68 a registered nurse or a licensed practical nurse; care furnished by such other licensed
 69 practitioners; institutional services including the general and usual care, services,
 70 supplies, and equipment furnished by health care institutions and agencies or entities
 71 other than hospitals; physiotherapy; ambulance services; drugs and medications;
 72 therapeutic services and equipment including oxygen and the rental of oxygen
 73 equipment; hospital beds; iron lungs; orthopedic services and appliances including
 74 wheelchairs, trusses, braces, crutches, and prosthetic devices including artificial limbs
 75 and eyes; and any other appliance, supply, or service related to health care.
- 76 (6) 'Health insurance plan' means any hospital or medical insurance policy or certificate;
 77 health plan contract or certificate; qualified higher deductible health plan; health
 78 maintenance organization subscriber contract; any contract providing benefits for dental
 79 care whether such contract is pursuant to a medical insurance policy or certificate;
 80 stand-alone dental plan, health maintenance provider contract, managed health care plan,
 81 self-insured plan, or otherwise; or any health insurance plan established pursuant to
 82 Article 1 of Chapter 18 of Title 45.
- 83 (7) 'Health insurer' means any entity or person engaged as an indemnitor, surety, or
 84 contractor that issues insurance, annuity or endowment contracts, subscriber certificates,
 85 or other contracts of insurance by whatever name called. Health care plans under
 86 Chapter 20A of this title and health maintenance organizations are health insurers within
 87 the meaning of this chapter.
- 88 (8) 'Nominal' means a monetary amount equal to or less than the bank fee associated
 89 with an electronic funds transfer.
- 90 (c) Any health insurance plan issued, amended, or renewed on or after January 1, 2019,
 91 between a health insurer or its contracted vendor or a care management organization and
 92 a health care provider for the provision of health care services to a plan enrollee shall not
 93 contain restrictions on methods of payment from the health insurer or its vendor or the care
 94 management organization to the health care provider in which the only acceptable payment
 95 method is a credit card payment.
- 96 (d) Prior to initiating or changing payments to a health care provider using electronic funds
 97 transfer payments, including virtual credit card payments, a health insurance plan, health
 98 insurer or its contracted vendor, or care management organization shall:
- 99 (1) Notify the health care provider of all fees associated with a particular payment
 100 method;

- 101 (2) Provide clear instructions to the health care provider as to how to opt out of the
102 payment method at any time following the initial agreement to the payment method; and
103 (3) Following completion of paragraphs (1) and (2) of this subsection, obtain written
104 consent from the health care provider for the payment method.
105 (e) Health care provider consent in accordance with paragraph (3) of subsection (d) shall
106 not be required prior to each subsequent transaction but shall be required for each new type
107 of electronic funds transfer payment initiated with a health care provider.
108 (f) A health insurance plan, health insurer or its contracted vendor, or care management
109 organization shall not impose any interchange, transaction, or processing fees or other
110 charges on the health care provider beyond a nominal amount for receiving electronic funds
111 transfer payments.
112 (g) The provisions of this Code section shall not be waived by contract, and any
113 contractual clause in conflict with the provisions of this Code section or that purport to
114 wave any requirements of this Code section are void.
115 (h) Violations of this Code section shall be subject to enforcement by the Commissioner."

116 **SECTION 2.**

117 This Act shall become effective on January 1, 2019.

118 **SECTION 3.**

119 All laws and parts of laws in conflict with this Act are repealed.