

SENATE BILL NO. 372—SENATOR DONATE

MARCH 23, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to emergency medical services. (BDR 40-992)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; prescribing procedures for determining the amount that certain third parties are required to pay to an out-of-network private ambulance service for medically necessary emergency services provided to a covered person; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits an out-of-network provider of health care from
2 collecting from a person covered by insurance an amount for medically necessary
3 emergency services that exceeds the copayment, coinsurance or deductible required
4 by that insurance. (NRS 439B.745) Existing law establishes various amounts which
5 a third party that provides such coverage must pay an out-of-network provider for
6 such services, and an out-of-network provider must accept as payment in full.
7 Under existing law, those amounts are based on the amount that would have been
8 paid under the most recent applicable contract between the third party and the
9 provider. If the provider was not a recent participant in the network of the third
10 party or if the third party terminated the most recent contract between the third
11 party and the provider for cause and the provider is not a facility, existing law
12 requires the third party to pay the provider an amount that the third party
13 determines to be fair and reasonable for the medically necessary emergency
14 services. (NRS 439B.748, 439B.751) If the out-of-network provider rejects an
15 amount determined by the third party to be fair and reasonable under such
16 circumstances, existing law requires the provider to request from the third party an
17 additional amount which, when combined with the amount previously paid, the out-
18 of-network provider is willing to accept as payment in full. If the third party refuses
19 to pay the additional amount requested by the provider, existing law requires the
20 third party and the provider to submit the dispute to binding arbitration.
21 (NRS 439B.754)

22 This bill creates a similar system for determining the amount that a third party
23 is required to pay an out-of-network private ambulance service for medically



24 necessary emergency services provided to a covered person. **Sections 2 and 3** of
25 this bill define the terms “out-of-network private ambulance service” and “private
26 ambulance service,” respectively. **Section 4** of this bill requires a third party to pay
27 an out-of-network private ambulance service for medically necessary emergency
28 services the greater of: (1) the amount that the third party would pay an in-network
29 private ambulance service for similar services, except for any copayment,
30 coinsurance or deductible required; (2) an amount calculated using the same
31 method the third party generally uses to determine payments for out-of-network
32 private ambulance services; or (3) the amount that would be paid for such services
33 under Medicare Part B. If the out-of-network private ambulance service rejects that
34 amount as payment in full for the medically necessary emergency services, **section**
35 **8** of this bill requires the out-of-network private ambulance service to request from
36 the third party an additional amount which, when combined with the amount
37 previously paid, the out-of-network private ambulance service is willing to accept
38 as payment in full. If the third party refuses to pay the additional amount requested
39 by the out-of-network private ambulance service, **section 8** requires the third party
40 and the out-of-network private ambulance service to submit the dispute to binding
41 arbitration.

42 **Sections 5 and 9** of this bill make conforming changes to indicate the proper
43 placement of **sections 2-4** in the Nevada Revised Statutes. **Section 7** of this bill
44 makes conforming changes to clarify that certain provisions governing payment for
45 medically necessary emergency services do not apply to such services provided by
46 an out-of-network private ambulance service.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 439B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *“Out-of-network private ambulance service” means a*
4 *private ambulance service that is an out-of-network provider.*

5 **Sec. 3.** *“Private ambulance service” means an ambulance*
6 *service that is not operated by a governmental entity.*

7 **Sec. 4. 1.** *A third party that provides coverage to a covered*
8 *person who receives medically necessary emergency services from*
9 *an out-of-network private ambulance service shall pay the out-of-*
10 *network private ambulance service as payment for the medically*
11 *necessary emergency services the greater of:*

12 *(a) The amount that would be paid pursuant to a provider*
13 *contract with an in-network private ambulance service for the*
14 *relevant medically necessary emergency services when provided in*
15 *the same geographic region where the medically necessary*
16 *emergency services were rendered to the covered person, except*
17 *for any copayment, coinsurance or deductible that the coverage*
18 *requires the covered person to pay for the services when provided*
19 *by an in-network private ambulance service. If there is more than*
20 *one such amount, the relevant amount is the median of those*
21 *amounts. In determining the median amount, the amount that*



1 *would be paid pursuant to each provider contract with an in-*
2 *network private ambulance service must be treated as a separate*
3 *amount, including, without limitation, where the same amount is*
4 *paid to more than one in-network private ambulance service. If*
5 *there is no provider contract with an in-network private*
6 *ambulance service which prescribes an amount to be paid on a*
7 *per-service basis for the relevant medically necessary emergency*
8 *services when provided in the same geographic region, including,*
9 *without limitation, because any relevant provider contract which*
10 *covers such services provides for capitation payments or other*
11 *similar payments, the amount described in this paragraph may not*
12 *be applied.*

13 (b) *An amount calculated using the same method the third*
14 *party generally uses to determine payments for an out-of-network*
15 *private ambulance service, except for any copayment, coinsurance*
16 *or deductible that the coverage requires the covered person to pay*
17 *for the services when provided by an out-of-network private*
18 *ambulance service.*

19 (c) *The amount that would be paid under Medicare Part B*
20 *provided pursuant to Part B of Title XVIII of the Social Security*
21 *Act, 42 U.S.C. §§ 1395j et seq., for the medically necessary*
22 *emergency services, except for any copayment, coinsurance or*
23 *deductible that the coverage requires the covered person to pay for*
24 *the services when provided by an in-network private ambulance*
25 *service.*

26 2. *As used in this section, “in-network private ambulance*
27 *service” means a private ambulance service that is an in-network*
28 *provider.*

29 **Sec. 5.** NRS 439B.700 is hereby amended to read as follows:

30 439B.700 As used in NRS 439B.700 to 439B.760, inclusive,
31 *and sections 2, 3 and 4 of this act*, unless the context otherwise
32 requires, the words and terms defined in NRS 439B.703 to
33 439B.739, inclusive, *and sections 2 and 3 of this act* have the
34 meanings ascribed to them in those sections.

35 **Sec. 6.** NRS 439B.727 is hereby amended to read as follows:

36 439B.727 “Provider of health care” has the meaning ascribed
37 to it in NRS 695G.070 **+** *and includes a private ambulance*
38 *service.*

39 **Sec. 7.** NRS 439B.751 is hereby amended to read as follows:

40 439B.751 1. If an out-of-network provider, other than an out-
41 of-network emergency facility **+** *or an out-of-network private*
42 *ambulance service*, had a provider contract as an in-network
43 provider within the 12 months immediately preceding the date on
44 which the medically necessary emergency services were rendered to
45 a covered person and:



1 (a) The out-of-network provider terminated the most recent
2 applicable provider contract between the third party that provides
3 coverage for the covered person and the out-of-network provider
4 without cause before it was scheduled to expire, the third party shall
5 pay to the out-of-network provider for those services, and the out-
6 of-network provider shall accept as payment in full for those
7 services, except for any copayment, coinsurance or deductible that
8 the coverage requires the covered person to pay for the services
9 when provided by an in-network provider, the amount that would
10 have been paid for those services pursuant to that provider contract,
11 less the amount of the copayment, coinsurance or deductible, if
12 applicable.

13 (b) The out-of-network provider terminated the most recent
14 applicable provider contract between the third party that provides
15 coverage for the covered person and the out-of-network provider for
16 cause before it was scheduled to expire or the third party terminated
17 the contract without cause, the third party shall pay to the out-of-
18 network provider for those services, and the out-of-network provider
19 shall accept as payment in full for those services, except for any
20 copayment, coinsurance or deductible that the coverage requires the
21 covered person to pay for the services when provided by an in-
22 network provider, 108 percent of the amount that would have been
23 paid for those services pursuant to the provider contract, less the
24 amount of the copayment, coinsurance or deductible, if applicable.

25 (c) The third party that provides coverage for the covered person
26 terminated the most recent applicable provider contract between the
27 third party and the out-of-network provider for cause before it was
28 scheduled to expire, the third party shall pay to the out-of-network
29 provider an amount that the third party has determined to be fair and
30 reasonable as payment for the medically necessary emergency
31 services, except for any copayment, coinsurance or deductible that
32 the coverage requires the covered person to pay for the services
33 when provided by an in-network provider.

34 (d) The contract was not terminated by either party, the third
35 party that provides coverage for the covered person shall pay to the
36 out-of-network provider for those services, and the out-of-network
37 provider shall accept as payment in full for those services, except
38 for any copayment, coinsurance or deductible that the coverage
39 requires the covered person to pay for the services when provided
40 by an in-network provider, the amount that would have been paid
41 for those services pursuant to the most recent applicable provider
42 contract between the third party and the out-of-network provider
43 plus an amount equal to the percentage of increase in the Consumer
44 Price Index, Medical Care Component, during the immediately



1 preceding calendar year, less the amount of the copayment,
2 coinsurance or deductible, if applicable.

3 2. If an out-of-network provider, other than an out-of-network
4 emergency facility **[] or an out-of-network private ambulance**
5 **service**, did not have a provider contract as an in-network provider
6 within the 12 months immediately preceding the date on which the
7 medically necessary emergency services were rendered to a covered
8 person, the third party that provides coverage to the covered person
9 shall submit to the out-of-network provider an offer of payment in
10 full for the medically necessary emergency services, except for any
11 copayment, coinsurance or deductible that the coverage requires the
12 covered person to pay for the services when provided by an in-
13 network provider.

14 **Sec. 8.** NRS 439B.754 is hereby amended to read as follows:

15 439B.754 1. An out-of-network provider shall accept or
16 reject an amount paid pursuant to subsection 2 of NRS 439B.748 or
17 paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751 **or**
18 **section 4 of this act** as payment in full for the medically necessary
19 emergency services for which the payment was offered within 30
20 days after receiving the payment. If an out-of-network provider fails
21 to comply with the requirements of this section, the amount paid
22 shall be deemed accepted as payment in full for the medically
23 necessary emergency services for which the payment was offered 30
24 days after the out-of-network provider received the payment.

25 2. If an out-of-network provider rejects the amount paid as
26 payment in full, the out-of-network provider must request from the
27 third party an additional amount which, when combined with the
28 amount previously paid, the out-of-network provider is willing to
29 accept as payment in full for the medically necessary emergency
30 services.

31 3. If the third party refuses to pay the additional amount
32 requested by the out-of-network provider pursuant to subsection 2 or
33 fails to pay that amount within 30 days after receiving the request
34 for the additional amount, the out-of-network provider must request
35 a list of five randomly selected arbitrators from an entity authorized
36 by regulations of the Director of the Department to provide such
37 arbitrators. Such regulations must require:

38 (a) For claims of less than \$5,000, the use of arbitrators who will
39 conduct the arbitration in an economically efficient manner. Such
40 arbitrators may include, without limitation, qualified employees of
41 the State and arbitrators from the voluntary program for the use of
42 binding arbitration established in the judicial district pursuant to
43 NRS 38.255 or, if no such program has been established in the
44 judicial district, from the program established in the nearest judicial
45 district that has established such a program.



1 (b) For claims of \$5,000 or more, the use of arbitrators from
2 nationally recognized providers of arbitration services, which may
3 include, without limitation, the American Arbitration Association,
4 JAMS or their successor organizations.

5 4. Upon receiving the list of randomly selected arbitrators
6 pursuant to subsection 3, the out-of-network provider and the third
7 party shall each strike two arbitrators from the list. If one arbitrator
8 remains, that arbitrator must arbitrate the dispute concerning the
9 amount to be paid for the medically necessary emergency services.
10 If more than one arbitrator remains, an arbitrator randomly selected
11 from the remaining arbitrators by the entity that provided the list of
12 arbitrators pursuant to subsection 3 must arbitrate that dispute.

13 5. The out-of-network provider and the third party shall
14 participate in binding arbitration of the dispute concerning the
15 amount to be paid for the medically necessary emergency services
16 conducted by the arbitrator selected pursuant to subsection 4. The
17 out-of-network provider or third party may provide the arbitrator
18 with any relevant information to assist the arbitrator in making a
19 determination.

20 6. The arbitrator shall require:

21 (a) The out-of-network provider to accept as payment in full for
22 the provision of the medically necessary emergency services, except
23 for any copayment, coinsurance or deductible that the coverage
24 requires the covered person to pay for the services when provided
25 by an in-network provider, the amount paid by the third party
26 pursuant to subsection 2 of NRS 439B.748 or paragraph (c) of
27 subsection 1 or subsection 2 of NRS 439B.751, *or section 4 of this*
28 *act*, as applicable; or

29 (b) The third party to pay the additional amount requested by the
30 out-of-network provider pursuant to subsection 2.

31 7. If the arbitrator requires:

32 (a) The out-of-network provider to accept the amount paid by
33 the third party pursuant to subsection 2 of NRS 439B.748 or
34 paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751, *or*
35 *section 4 of this act*, as applicable, as payment in full for the
36 provision of the medically necessary emergency services, except for
37 any copayment, coinsurance or deductible that the coverage requires
38 the covered person to pay for the services when provided by an in-
39 network provider, the out-of-network provider must pay the costs of
40 the arbitrator.

41 (b) The third party to pay the additional amount requested by the
42 out-of-network provider pursuant to subsection 2, the third party
43 must pay the costs of the arbitrator.



1 8. An out-of-network provider or a third party must pay its own
2 attorney's fees incurred during the process prescribed by this
3 section.

4 9. Interest does not accrue on any claim for which an offer of
5 payment is rejected pursuant to subsection 1 for the period
6 beginning on the date of the rejection and ending 30 days after the
7 arbitrator renders a decision.

8 10. Except as otherwise provided in this subsection and NRS
9 439B.760, any decision of an arbitrator pursuant to this section and
10 any documents associated with such a decision are confidential and
11 are not admissible as evidence during a legal proceeding, including,
12 without limitation, a legal proceeding between the third party and
13 the out-of-network provider. The decision of an arbitrator and any
14 documents associated with such a decision may be disclosed and are
15 admissible as evidence during a legal proceeding to enforce the
16 decision.

17 **Sec. 9.** NRS 439B.757 is hereby amended to read as follows:

18 439B.757 Any entity or organization, not otherwise subject to
19 the provisions of NRS 439B.700 to 439B.760, inclusive, *and*
20 *sections 2, 3 and 4 of this act* that provides coverage for emergency
21 medical services, including, without limitation, a participating
22 public agency, as defined in NRS 287.04052, and any other local
23 governmental agency which provides a system of health insurance
24 for the benefit of its officers and employees, and the dependents of
25 such officers and employees, pursuant to chapter 287 of NRS, may
26 elect for the provisions of NRS 439B.700 to 439B.760, inclusive,
27 *and sections 2, 3 and 4 of this act* to apply to the provision of
28 medically necessary emergency services by out-of-network
29 providers to covered persons. The Director of the Department of
30 Health and Human Services shall:

31 1. Publish on an Internet website maintained by the
32 Department a list of third parties that have made such an election;
33 and

34 2. Adopt regulations governing such an election, which may
35 include, without limitation, regulations that establish the procedure
36 by which a third party may make such an election.

37 **Sec. 10.** 1. This section becomes effective upon passage and
38 approval.

39 2. Sections 1 to 9, inclusive, of this act become effective:

40 (a) Upon passage and approval for the purpose of adopting any
41 regulations and performing any other preparatory administrative
42 tasks that are necessary to carry out the provisions of this act;

43 (b) On January 1, 2024, for all other purposes.

