

No. 1990-81

AN ACT

HB 700

Prohibiting health care practitioners from balance billing for services to certain patients.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Health Care Practitioners Medicare Fee Control Act.

Section 2. Purposes.

(a) *Legislative finding.*—The General Assembly finds that there exists in this Commonwealth a major crisis because of the continuing escalation of costs for health care services. Because of the continuing escalation of costs, an increasingly large number of Pennsylvania citizens have severely limited access to appropriate and timely health care. Senior citizens and the disabled are disadvantaged by the continuing escalation of costs for health care services. Increasing costs are also undermining the quality of health care services currently being provided. Further, the continuing escalation is negatively affecting the economy of this Commonwealth and is restricting new economic growth and impeding the creation of new job opportunities in this Commonwealth.

(b) *Declaration of policy.*—The General Assembly declares its policy to be that, in accordance with the provisions of this act, providers of health care services should not charge or collect from a beneficiary of health insurance under Title XVIII of the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.), known as the Medicare Program, an amount in excess of the reasonable charge for the service provided, as determined by the United States Secretary of Health and Human Services.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Balance billing.” To charge or collect from a beneficiary of health insurance under Title XVIII of the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.), known as the Medicare Program, an amount in excess of the reasonable charge for the service provided, as determined by the United States Secretary of Health and Human Services.

“Healing arts.” The science and skill of diagnosis, prevention or treatment, in any manner whatsoever, of disease or any ailment of the human body.

“Health care practitioner.” An individual who is authorized to practice some component of the healing arts by a license, permit, certificate or regis-

tration issued by a Commonwealth licensing agency or board. The term includes, but is not limited to, a medical doctor, an osteopathic physician, a chiropractor, a dentist, an optometrist, a pharmacist, a physical therapist, a podiatrist, a professional nurse and a psychologist.

Section 4. Balance billing by health care practitioners prohibited.

It shall be unlawful for any health care practitioner, or any primary health center, corporation, facility, institution or other entity that employs a health care practitioner, to balance bill.

Section 5. Penalties and procedure.

(a) General penalties.—If a person violates section 4, the licensing board of the Bureau of Professional and Occupational Affairs under which the violator is licensed shall do the following:

(1) Publicly reprimand the violator.

(2) Order the violator to repay the victim the amount of excess payments made and received, plus interest on that amount at the maximum legal rate from the date payment was made until the date repayment is made.

(b) Additional violations.—If a person violates section 4 more than once, the penalties set forth in subsection (a) shall again be ordered. In addition, the following penalties shall be imposed:

(1) For a second violation, a fine of \$2,000.

(2) For a third violation, a fine of \$5,000.

(3) For a fourth or subsequent violation, a fine of \$1,000 more than the last fine imposed.

(c) Disposition of fines collected.—Fines collected under this section shall be deposited into the General Fund.

(d) Procedure.—Before a penalty may be imposed under this section, a complaint shall be filed against the health care practitioner and notice of and an opportunity for a hearing shall be given. Either party to the complaint may appeal to the Commonwealth Court from an adjudication of the licensing board under 2 Pa. C.S. (relating to administrative law and procedure).

(e) Exceptions.—No penalty imposed under this section shall be considered cause to withhold, suspend or revoke the license of a health care practitioner by a licensing board.

Section 6. Notice to Medicare beneficiaries.

(a) Practitioner's duty.—A sign which sets forth the following shall be posted by licensed health care practitioners who treat Medicare beneficiaries:

(1) The rights of Medicare patients under this act.

(2) The identification of the Department of State as the proper State agency to receive patients' complaints relating to balance billing prohibited under this act.

(3) The address and telephone number of the Department of State.

(b) Distribution of signs.—The signs posted by licensed health care practitioners, in accordance with subsection (a), shall be composed, printed and distributed by the Bureau of Professional and Occupational Affairs of the Department of State. Distribution shall be to all health practitioners who treat Medicare beneficiaries.

(c) Duty in the case of bilingual patients.—If a health care practitioner treats Medicare beneficiaries whose primary language skill is in a language other than English, the practitioner shall notify the Bureau of Professional and Occupational Affairs, which shall provide the practitioner with a sign setting forth the information required under subsection (a) in the appropriate language.

Section 7. Effective date.

This act shall take effect in 60 days.

APPROVED—The 10th day of July, A. D. 1990.

ROBERT P. CASEY