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LETTER No. 15

GUIDANCE RELATED TO AB 72

The purpose of this letter is to provide guidance concerning Assembly Bill (AB) 72 (Bonta – Stats. 2016, ch. 492) and its nonapplicability to coverage provided under the Medicare program.

Background

AB 72 protects consumers from surprise medical bills. When a health care service plan enrollee receives covered services at an in-network, or “contracting,” health facility from a noncontracting individual health professional, the enrollee shall pay no more than the same cost sharing the enrollee would pay for the same covered services received at an in-network health facility from a contracting individual health professional. That is, the enrollee shall pay no more than the “in-network cost-sharing amount.” The health care service plan or its delegated entity shall pay the noncontracting individual health professional an agreed-upon rate, or the default reimbursement rate, as defined.¹ The noncontracting individual health professional may accept the health plan’s reimbursement or may dispute the reimbursement through the independent dispute resolution process and any other legal process.

Applicability of AB 72

AB 72 generally applies to health care service plans regulated by the Department of Managed Health Care under the circumstances described in the Background section,

¹ See Cal. Code of Regs., tit. 28, section 1300.71.31.

above.² However, AB 72 does not apply to every situation. AB 72 does not apply to emergency services or to Medi-Cal plans. Additionally, the Knox-Keene Health Care Service Plan Act of 1975, of which AB 72 is a part, generally does not apply to health coverage for which there is no state jurisdiction. Accordingly, AB 72 does not apply to self-insured plans and Medicare plans.

For example, because AB 72 does not apply to health coverage offered by Medicare plans, AB 72 governs neither the reimbursement of noncontracting individual health professionals who provide health services to Medicare beneficiaries, nor to the private contracts between those professionals and Medicare beneficiaries. Federal Medicare laws, including provisions regarding participating, non-participating, or opted-out physicians, continue to apply to health coverage and services for Medicare beneficiaries.

Authority Cited

Health and Safety Code sections 1341, 1343, 1344, 1345, 1371.9., 1371.30, and 1371.31

See *Cal Ass'n of Health Plans v. Zingale*, No. 00-06803 RSWL(MCX), 2001 WL 1334987 (C.D. Cal. Aug. 29, 2001).

If you have any questions concerning this letter, please contact the Office of Legal Services at (916) 322-6727.

Shelley Rouillard, Director

² Health and Safety Code section 1371.9. Note: AB 72 also applies to insurers regulated by the California Department of Insurance, pursuant to Insurance Code section 10112.8.