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Preventing surprise medical bills

Doctors, insurers differ on specifics of proposed reforms

By Jordan Carleo-Evangelist
Published 9:55 pm, Monday, March 24, 2014

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Albany

State Financial Services Superintendent **Ben Lawsky** on Monday called on lawmakers to back reforms that would protect patients from getting blindsided by large medical bills in disputes between insurance companies and doctors over out-of-network procedures.

The changes — which were proposed by Gov. **Andrew Cuomo** and backed by **Consumers Union** and the AARP — would prevent consumers who make an effort to ensure their doctors are in-network from being hit with unexpected huge bills during emergencies or when an in-network doctor consults an out-of-network specialist on their case.

The reforms would also provide for an arbitration mechanism — not unlike the one

that exists for player contracts in **Major League Baseball** — to settle those billing disputes between insurers and doctors.

"The point, I think, of the bill is if you can't afford to see an out-of-network doctor or you don't want to see an out-of-network doctor, and you're doing everything you can to stay in the network you paid for, that if you get one of these surprise bills you are held harmless and it's for the doctor and the insurance company to work it out," Lawsky said.

Organizations that represent insurers and doctors both say they support the concept of freeing patients from liabilities, but they differ over the details of the dispute-resolution process.

Under Cuomo's plan, when disputed out-of-network bills arise, doctors and insurers would go to an arbitrator with a proposed payment, with the arbitrator picking one or the other.

The **Medical Society of New York** and other doctor groups are lobbying for that system to include a payment floor ensuring doctors would receive at least a minimum amount. According to the state Senate's version of the legislation, that minimum would be 80 percent of the "usual and customary" costs of the services.

Morris Auster, the medical society's vice president for legislative and regulatory affairs, said such a provision would protect doctors from being lowballed by powerful insurance companies.

"Our concern is that we don't have any great trust in insurance companies," Auster said. "We would like to see something in that situation to ensure that the doctors are going to be paid fairly."

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But the [New York Health Plan Association](#), an industry group that advocates for insurers, opposes any sort of payment floor, arguing in part that it could operate as incentive for doctors to drive up prices.

"Don't give them an incentive to, if you will, massage the 'usual and customary,'" said [Leslie Moran](#), senior vice president at the insurers' association.

Forcing insurers to provide more out-of-network coverage could also give doctors an incentive to leave insurance networks to take advantage of higher rates, causing "instability" in insurance markets, Moran said.

Lasky said legislative leaders were discussing various aspects of the proposal late into Sunday night. And Assembly Speaker [Sheldon Silver](#) said he was pushing for its inclusion in the budget, which must be finalized by Monday.

"I'm OK with it. The governor's OK with it. I'm not sure where the Senate is," Silver said.

Senate Republican spokesman [Scott Reif](#) said the GOP senators, who jointly control the chamber, are "supportive of the consumer protection provisions and are working very hard to arrive at a consensus on this issue."

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