DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE FOR CONSUMER HEALTH ASSISTANCE POLICY				
POLICY #	REVISED	TITLE	EFFECTIVE DATE	PAGE
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POLICY

It is the policy of the Department of Health and Human Services (DHHS), pursuant to AB 469, to develop permanent regulations for:

1. Arbitration for claims of less than $5,000 for medically necessary emergency services for out-of-network emergency facilities, out-of-network providers and third parties.
2. Election of a third party that is not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 to make such an election.
3. Information requested by DHHS relevant to the report outlined in AB 469, Sec.19.

PURPOSE

To clarify procedures for establishing a process for arbitration for claims of less than $5,000 for medically necessary emergency services for out-of-network emergency facilities, out-of-network providers and third parties, election of a third party that is not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 to make such an election and information requested by DHHS relevant to the report outlined in AB 469, Sec.19.

AB 469 goes into effect January 1, 2020 and proposed, permanent regulations are in the review process with the Legislative Counsel Bureau. As such, the Office for Consumer Health Assistance will follow procedures outlined in AB 469 proposed, permanent regulations until permanent regulations are adopted.

DEFINITIONS

"Medically necessary emergency services" - Health care services that are provided by a provider of health care to screen and to stabilize a covered person after the sudden onset of a medical condition that manifests itself by symptoms of such sufficient severity that a prudent person would believe that the absence of immediate medical attention could result in:

1. Serious jeopardy to the health of the covered person;
2. Serious jeopardy to the health of an unborn child of the covered person;
3. Serious impairment of a bodily function of the covered person; or
4. Serious dysfunction of any bodily organ or part of the covered person.

"Out-of-network emergency facility" – A hospital or independent center for emergency medical care that is an out-of-network provider.

"Out-of-network provider" - For a particular covered person, a provider of health care that has not entered into a provider contract with a third party for the provision of health care to the covered person.

"Third party"

1. Includes, without limitation:
   (a) The issuer of a health benefit plan, as defined in NRS 695G.019, which provides coverage for medically necessary emergency services;
   (b) The Public Employees' Benefits Program established pursuant to subsection 1 of NRS 287.043; and
   (c) Any other entity or organization that elects to apply to the provision of medically necessary emergency services by out-of-network providers to covered persons pursuant to AB469.
2. Does not include the State Plan for Medicaid, the Children's Health Insurance Program or a health maintenance organization, as defined in NRS 695C.030, or managed care

organization, as defined in NRS 695G.050, when providing health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department.

REFERENCES

1. **Nevada Revised Statute (NRS) 439B – "Restraining Costs of Healthcare"**
2. **Assembly Bill 469 (80th Session – 2019)**

PROCEDURE

A. Submission, contents and review of requests for arbitration for claims of less than $5,000 for medically necessary emergency services.

1. An out-of-network provider requesting arbitration for claims of medically necessary emergency services must submit an application in the format specified in this section.
2. The request must be submitted to the Department within 30 business days from the date the third party refuses to pay the additional amount requested by the out-of-network provider or fails to pay that amount pursuant to AB 469, Sec. 17.3.
3. The Department will not accept applications requesting arbitration past 30 business days from the date the third party refuses to pay the additional amount requested by the out-of-network provider or fails to pay that amount pursuant to AB 469, Sec. 17.3. and payment received will be considered payment in full.
4. An application requesting arbitration must be on the prescribed form by the Department and include the following information:
   (a) Out-of-network provider contact information and location.
   (b) Date of medically necessary emergency service(s).
   (c) Type of medically necessary emergency service(s) provided.
   (d) Type of provider of health care.
   (e) Specialty of provider of health care.
   (f) Third party contact information.
   (g) Type of third party.
   (h) Documentation of:
      a. Date out-of-network provider received payment by the third party.
      b. Amount of payment received.
      c. Date out-of-network provider requested additional amount to be paid by the third party.
      d. Additional amount requested by out-of-network provider.
      e. A representative sample of at least 3 fees received by the provider in the last 24 months for the same service, in the same region, from health plans in which the provider does not participate.
5. Within 5 business days after receipt of the application, the Department shall notify the out-of-network provider in writing of receipt of the application.
6. Within 15 business days after receipt of the application, the Department shall:
   (a) Review the application and verify the information contained within; and
   (b) Notify the out-of-network provider in writing if any section of the application is incomplete and/or request any additional information.

7. Within 5 business days of application approval, the Department shall provide in writing a list of 5 qualified State employees to complete the arbitration to the out-of-network provider and third party.

B. List of arbitrators, information requested by the arbitrator.

1. Within 10 business days from receipt of the list of arbitrators, the out-of-network provider and third party must select an arbitrator based on AB 469, Sec. 17.4. and submit their selections in writing to the Department.
2. Within 5 business days after receiving the list of arbitrators from both the out-of-network provider and third party, the Department shall:
   (a) If more than one arbitrator remains, randomly select an arbitrator from the remaining arbitrators on the list pursuant to AB 469, Sec 17.4.
   (b) Notify, in writing, the out-of-network provider and third party the name of the selected arbitrator.
3. The out-of-network provider and third party have 10 business days to submit in writing any relevant information requested by the arbitrator to assist the arbitrator in making a determination.
4. Within 30 business days of receipt of requested information, the arbitrator will notify the out-of-network provider and third party of the decision as outlined in AB 469, Sec 17.6.
5. If an out-of-network provider fails to provide information requested by the arbitrator, the arbitrator may review the evidence and proceed to consider the matter and dispose of it on the basis of the evidence before the arbitrator.
6. If the third party fails to provide information requested by the arbitrator, the arbitrator may review the evidence and proceed to consider the matter on the basis of the evidence before the arbitrator and may require the third party to pay the requested additional amount by the out-of-network provider.

C. Request for arbitration for claims of $5,000 or more for medically necessary emergency services.

For claims of $5,000 or more, the out-of-network provider and third party are required to use the American Arbitration Association, JAMS or their successor organizations.

D. Sec. 18. 1.
Third party Election.

1. A third party that is not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 may choose at any time to make an election to participate in the provisions of AB 469 must submit an application in the format specified in this section to the Department.
2. An application of election must be on the form prescribed by the Department and include the following information:
   (a) The name of the third party.
   (b) Third party contact information.
   (c) The type of third party.
   (d) The date the election goes into effect.
3. A third party not otherwise subject to the provisions of sections 2 to 19 inclusive of AB 469 that made an election to participate in AB 469 may choose anytime to withdraw the election, must submit an application in the format specified in this section to the Department a minimum of 30 days prior to the effective date of such withdrawal.

4. An application for withdrawal of election must be on the form prescribed by the Department and include the following:
   (a) The name of the third party.
   (b) Third party contact information.
   (c) The type of third party.
   (d) The date the withdrawal goes into effect.
   (e) The reason for withdrawal of election.

E. Reporting.
AB 469, Sec. 19.2. (a) (b)

1. On or before December 31st of each year, a third party shall report requested information for the immediately preceding 12 months on the form prescribed by the Department and include the following:
   (a) The name of the third party.
   (b) Third party contact information.
   (c) The type of third party.
   (d) The number of disputed payments by out-of-network providers for medically necessary emergency services that were settled without arbitration.
   (e) Types of provider of health care that settled disputed payments.
   (f) Amounts of settled payments.
   (g) Number of new contracts with providers of health care that provide medically necessary emergency services.
   (h) Types of provider of health care that entered into new contracts.
   (i) Number of terminated contracts with providers of health care that provide medically necessary emergency services.
   (j) Reasons for terminated contracts with providers of health care that provide medically necessary emergency services.