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Governor

Department of Health

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Commissioner

MEGAN E. BALDWIN
Acting Executive Deputy Commissioner

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Facility Fees

Dear Chief Executive Officer and Administrators:

This letter is to inform you about the addition of a new section to New York State Public Health Law (PHL), Section 2830, which took effect on June 21, 2023. PHL § 2830 requires hospitals and healthcare professionals to provide written notice to patients prior to charging them for facility fees. PHL § 2801 was also amended to define “facility fee,” “health system” and “provider”, as detailed herein.

PHL § 2830 provides that no hospital, health system or health care provider shall bill or seek payment from a patient for a facility fee that is not covered by the patient's health insurance carrier unless the patient was notified prior to the date of service that a facility fee would be applicable. If a health care provider enters into a business relationship with a hospital or health system that will result in the provider's patients being subject to facility fees, the health care provider must notify its patients of the change and that facility fees will now be applicable to services received from the health care provider.

PHL § 2830 requires that written notice regarding the facility fee be provided to the patient at least seven days in advance of each date of service. The written notice must explain the amount of the fee, the purpose of the fee, and whether the patient's insurance plan will pay the fee. For uninsured patients, information on how to apply for financial assistance must be given. If advance written notice is infeasible because the visit was secured less than seven days in advance, then a written notice shall be provided on the date the service is rendered.

The written notice shall be provided in plain language in conspicuous twelve-point bold face type and be available in the top six languages spoken in the hospital's service area. Hospitals are strongly encouraged to include the facility fee notice in a separate, unique document to ensure patients are adequately notified of the facility fee and have an opportunity to request clarification when needed. Presenting the notice in a unique document will further ensure that uninsured patients are appropriately identified and receive information on how to apply for financial assistance, as required under the law.

In no event shall a facility fee be charged for services related to the provision of preventive care services as defined by the United States Preventive Services Task Force; that is, services for which there is no cost sharing (such as copayments, deductibles, or co-insurance).

Definitions:

Facility Fee is any fee charged or billed by a hospital or healthcare professional authorized under Title Eight of the Education Law that is: (a) intended to compensate the hospital or health care professional for the operational expenses regardless of the modality through which the health care services are provided; and (b) separate and distinct from a professional fee. Facility Fee shall not include any fee charged or billed by a residential health care facility.

Health System means a group of one or more hospitals and providers affiliated through ownership, governance, membership, or other means.

Provider means an individual or entity, whether for profit or nonprofit, whose primary purpose is to provide professional health care services.

Questions regarding this correspondence may be referred to hospinfo@health.ny.gov

Sincerely,

Stephanie Shulman, DrPH, MS
Director
Division of Hospitals and Diagnostic &
Treatment Centers