

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 356z.3a as follows:

6 (215 ILCS 5/356z.3a)

7 Sec. 356z.3a. Nonparticipating facility-based physicians  
8 and providers.

9 (a) For purposes of this Section, "facility-based  
10 provider" means a physician or other provider who provide  
11 radiology, anesthesiology, pathology, neonatology, or  
12 emergency department services to insureds, beneficiaries, or  
13 enrollees in a participating hospital or participating  
14 ambulatory surgical treatment center.

15 (b) When a beneficiary, insured, or enrollee utilizes a  
16 participating network hospital or a participating network  
17 ambulatory surgery center and, due to any reason, in network  
18 services for radiology, anesthesiology, pathology, emergency  
19 physician, or neonatology are unavailable and are provided by a  
20 nonparticipating facility-based physician or provider, the  
21 insurer or health plan shall ensure that the beneficiary,  
22 insured, or enrollee shall incur no greater out-of-pocket costs  
23 than the beneficiary, insured, or enrollee would have incurred

1 with a participating physician or provider for covered  
2 services.

3 (c) If a beneficiary, insured, or enrollee agrees in  
4 writing, notwithstanding any other provision of this Code, any  
5 benefits a beneficiary, insured, or enrollee receives for  
6 services under the situation in subsection (b) are assigned to  
7 the nonparticipating facility-based providers. The insurer or  
8 health plan shall provide the nonparticipating provider with a  
9 written explanation of benefits that specifies the proposed  
10 reimbursement and the applicable deductible, copayment or  
11 coinsurance amounts owed by the insured, beneficiary or  
12 enrollee. The insurer or health plan shall pay any  
13 reimbursement directly to the nonparticipating facility-based  
14 provider. The nonparticipating facility-based physician or  
15 provider shall not bill the beneficiary, insured, or enrollee,  
16 except for applicable deductible, copayment, or coinsurance  
17 amounts that would apply if the beneficiary, insured, or  
18 enrollee utilized a participating physician or provider for  
19 covered services. If a beneficiary, insured, or enrollee  
20 specifically rejects assignment under this Section in writing  
21 to the nonparticipating facility-based provider, then the  
22 nonparticipating facility-based provider may bill the  
23 beneficiary, insured, or enrollee for the services rendered.

24 (d) For bills assigned under subsection (c), the  
25 nonparticipating facility-based provider may bill the insurer  
26 or health plan for the services rendered, and the insurer or

1 health plan may pay the billed amount or attempt to negotiate  
2 reimbursement with the nonparticipating facility-based  
3 provider. If attempts to negotiate reimbursement for services  
4 provided by a nonparticipating facility-based provider do not  
5 result in a resolution of the payment dispute within 30 days  
6 after receipt of written explanation of benefits by the insurer  
7 or health plan, then an insurer or health plan or  
8 nonparticipating facility-based physician or provider may  
9 initiate binding arbitration to determine payment for services  
10 provided on a per bill basis. The party requesting arbitration  
11 shall notify the other party arbitration has been initiated and  
12 state its final offer before arbitration. In response to this  
13 notice, the nonrequesting party shall inform the requesting  
14 party of its final offer before the arbitration occurs.  
15 Arbitration shall be initiated by filing a request with the  
16 Department of Insurance.

17 (e) The Department of Insurance shall publish a list of  
18 approved arbitrators or entities that shall provide binding  
19 arbitration. These arbitrators shall be American Arbitration  
20 Association or American Health Lawyers Association trained  
21 arbitrators. Both parties must agree on an arbitrator from the  
22 Department of Insurance's list of arbitrators. If no agreement  
23 can be reached, then a list of 5 arbitrators shall be provided  
24 by the Department of Insurance. From the list of 5 arbitrators,  
25 the insurer can veto 2 arbitrators and the provider can veto 2  
26 arbitrators. The remaining arbitrator shall be the chosen

1 arbitrator. This arbitration shall consist of a review of the  
2 written submissions by both parties. Binding arbitration shall  
3 provide for a written decision within 45 days after the request  
4 is filed with the Department of Insurance. Both parties shall  
5 be bound by the arbitrator's decision. The arbitrator's  
6 expenses and fees, together with other expenses, not including  
7 attorney's fees, incurred in the conduct of the arbitration,  
8 shall be paid as provided in the decision.

9 (f) This Section 356z.3a does not apply to a beneficiary,  
10 insured, or enrollee who willfully chooses to access a  
11 nonparticipating facility-based physician or provider for  
12 health care services available through the insurer's or plan's  
13 network of participating physicians and providers. In these  
14 circumstances, the contractual requirements for  
15 nonparticipating facility-based provider reimbursements will  
16 apply.

17 (g) Section 368a of this Act shall not apply during the  
18 pendency of a decision under subsection (d) any interest  
19 required to be paid a provider under Section 368a shall not  
20 accrue until after 30 days of an arbitrator's decision as  
21 provided in subsection (d), but in no circumstances longer than  
22 150 days from date the nonparticipating facility-based  
23 provider billed for services rendered.

24 (h) Nothing in this Section shall be interpreted to change  
25 the prudent layperson provisions with respect to emergency  
26 services under the Managed Care Reform and Patient Rights Act.

1 (Source: P.A. 96-1523, eff. 6-1-11.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.