

**PROPOSED REGULATION OF THE
OFFICE OF CONSUMER HEALTH ASSISTANCE OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R101-19I

**The following document is the initial draft regulation proposed
by the agency submitted on 11/08/2019**

11-08-19

Draft of Permanent Regulations Regarding AB 469, NRS 439 and AB 170, NRS 232

AB 469

Sec. 17:

Submission, contents and review of requests for arbitration for claims of 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:
 - (a) No later than 10 business days from the date the third party refuses to pay the additional amount requested, or;
 - (b) Fails to pay that amount pursuant to AB 469, Sec. 17. 3.
3. The Department will not accept applications requesting arbitration past 10 business days from the date the third party refuses to pay the additional amount requested 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:
 - (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 or unclear.
6. Within 5 business days of application approval, the Department shall:
 - (a) For claims of less than \$5,000, provide in writing notification of application approval with a list of 5 qualified State employees to complete the arbitration to the out-of-network provider and third party.

- (b) For claims of \$5,000 or more, provide in writing notification of application approval with a list of nationally recognized providers of arbitration services to the out-of-network provider and third party.

Claims of less than \$5,000:

1. Within 5 business day 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 15 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.

Claims of \$5,000 or more:

1. The out-of-network provider and third party shall:
 - (a) select a nationally recognized provider of arbitration services from the list provided by the Department.
 - (b) Follow requirements of the nationally recognized provider of arbitration services.
2. Within 10 business days of receipt of the decision, the prevailing party shall provide the following information to the Department on the prescribed form:
 - (a) The name of the nationally recognized provider of arbitration services.
 - (b) The date the arbitration started.
 - (c) The date the arbitration was completed.
 - (d) The arbitrator's decision, including the amount paid to the prevailing party.
3. The Department shall charge and collect a \$250 administrative penalty for failure of the prevailing party to submit the required information to the Department within 10 business days of receipt of the arbitrator's decision.

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 and the fee prescribed at the time of application 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.

Fees.

The Department shall charge and collect the following fees:

1. For arbitration, the fee will be charged to the out-of-network provider or third party based on AB 469, Sec 17. 7.
 - (a) \$200 for arbitration of claims for medically necessary emergency services of less than \$5,000.
 - (b) \$50 for applications of \$5,000 or more for medically necessary emergency services.
2. For elections pursuant to AB 469, Sec. 18:
 - (a) \$10 to publish on an Internet website a list of third parties that have made an election pursuant to AB 469, Sec. 18., and;
 - (b) \$10 to remove a third party who withdraws such an election.

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.
2. The Department shall charge and collect a \$250 administrative penalty for the failure of the third party to submit requested information on or before December 31st of each year to the Department.

AB 170, Sec. 4.5. 1.

Submission of information as outlined in AB 170, Sec. 4.5 1.

1. On or before December 31st of each year, a health carrier which offers or issues a network plan must report requested information as outlined in AB 170, Sec. 4.5., 1. for the immediately preceding 12 months on the form prescribed by the Office for Consumer Health Assistance.
2. The Office for Consumer Health Assistance shall charge and collect a \$200 administrative penalty for failure of a health carrier to submit required information on or before December 31st of each year to the Office for Consumer Health Assistance.