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SENATE BILL NO. 497—COMMITTEE ON FINANCE

MAY 15, 2023

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Referred to Committee on Finance

**SUMMARY**—Revises provisions relating to certain arbitrations concerning the cost of medically necessary emergency services. (BDR 40-1214)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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**AN ACT** relating to health care; authorizing a state agency to retain money received for the costs of certain arbitrations conducted by an employee of the agency; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires a hospital to provide emergency services and care and to  
2 admit certain patients where appropriate, regardless of the financial status of the  
3 patient. (NRS 439B.410) Existing law prescribes a procedure for determining the  
4 amount that a third party insurer must pay for medically necessary emergency  
5 services rendered by an out-of-network provider to a person covered by the third  
6 party. (NRS 439B.748, 439B.751) Under existing law, if the third party and the  
7 out-of-network provider fail to agree on the amount to be paid, the parties are  
8 required to arbitrate the dispute. Existing law authorizes a qualified employee of the  
9 State to conduct an arbitration for a claim of less than \$5,000. Existing law also  
10 requires the losing party of such an arbitration to pay the costs of the arbitrator.  
11 (NRS 439B.754) Except where specifically provided otherwise, existing law  
12 requires that any money which belongs to the State be credited to the State General  
13 Fund. (NRS 353.249) **Section 1** of this bill authorizes a state agency whose  
14 employee serves as an arbitrator of a dispute between a third party and an out-of-  
15 network provider to retain the money paid for the costs of the arbitrator, instead of  
16 such money being credited to the State General Fund. **Section 2** of this bill provides  
17 that the provisions of **section 1** apply to any money collected by a state agency  
18 under such circumstances on or after July 1, 2022.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** NRS 439B.754 is hereby amended to read as  
2 follows:

3     439B.754 1. An out-of-network provider shall accept or  
4 reject an amount paid pursuant to subsection 2 of NRS 439B.748 or  
5 paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751 as  
6 payment in full for the medically necessary emergency services for  
7 which the payment was offered within 30 days after receiving the  
8 payment. If an out-of-network provider fails to comply with the  
9 requirements of this section, the amount paid shall be deemed  
10 accepted as payment in full for the medically necessary emergency  
11 services for which the payment was offered 30 days after the out-of-  
12 network provider received the payment.

13     2. If an out-of-network provider rejects the amount paid as  
14 payment in full, the out-of-network provider must request from the  
15 third party an additional amount which, when combined with the  
16 amount previously paid, the out-of-network provider is willing to  
17 accept as payment in full for the medically necessary emergency  
18 services.

19     3. If the third party refuses to pay the additional amount  
20 requested by the out-of-network provider pursuant to subsection 2 or  
21 fails to pay that amount within 30 days after receiving the request  
22 for the additional amount, the out-of-network provider must request  
23 a list of five randomly selected arbitrators from an entity authorized  
24 by regulations of the Director of the Department to provide such  
25 arbitrators. Such regulations must require:

26     (a) For claims of less than \$5,000, the use of arbitrators who will  
27 conduct the arbitration in an economically efficient manner. Such  
28 arbitrators may include, without limitation, qualified employees of  
29 the State and arbitrators from the voluntary program for the use of  
30 binding arbitration established in the judicial district pursuant to  
31 NRS 38.255 or, if no such program has been established in the  
32 judicial district, from the program established in the nearest judicial  
33 district that has established such a program.

34     (b) For claims of \$5,000 or more, the use of arbitrators from  
35 nationally recognized providers of arbitration services, which may  
36 include, without limitation, the American Arbitration Association,  
37 JAMS or their successor organizations.

38     4. Upon receiving the list of randomly selected arbitrators  
39 pursuant to subsection 3, the out-of-network provider and the third  
40 party shall each strike two arbitrators from the list. If one arbitrator  
41 remains, that arbitrator must arbitrate the dispute concerning the  
42 amount to be paid for the medically necessary emergency services.



1 If more than one arbitrator remains, an arbitrator randomly selected  
2 from the remaining arbitrators by the entity that provided the list of  
3 arbitrators pursuant to subsection 3 must arbitrate that dispute.

4 5. The out-of-network provider and the third party shall  
5 participate in binding arbitration of the dispute concerning the  
6 amount to be paid for the medically necessary emergency services  
7 conducted by the arbitrator selected pursuant to subsection 4. The  
8 out-of-network provider or third party may provide the arbitrator  
9 with any relevant information to assist the arbitrator in making a  
10 determination.

11 6. The arbitrator shall require:

12 (a) The out-of-network provider to accept as payment in full for  
13 the provision of the medically necessary emergency services, except  
14 for any copayment, coinsurance or deductible that the coverage  
15 requires the covered person to pay for the services when provided  
16 by an in-network provider, the amount paid by the third party  
17 pursuant to subsection 2 of NRS 439B.748 or paragraph (c) of  
18 subsection 1 or subsection 2 of NRS 439B.751, as applicable; or

19 (b) The third party to pay the additional amount requested by the  
20 out-of-network provider pursuant to subsection 2.

21 7. If the arbitrator requires:

22 (a) The out-of-network provider to accept the amount paid by  
23 the third party pursuant to subsection 2 of NRS 439B.748 or  
24 paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751, as  
25 applicable, as payment in full for the provision of the medically  
26 necessary emergency services, except for any copayment,  
27 coinsurance or deductible that the coverage requires the covered  
28 person to pay for the services when provided by an in-network  
29 provider, the out-of-network provider must pay the costs of the  
30 arbitrator.

31 (b) The third party to pay the additional amount requested by the  
32 out-of-network provider pursuant to subsection 2, the third party  
33 must pay the costs of the arbitrator.

34 8. *If a qualified employee of the State serves as an arbitrator*  
35 *pursuant to paragraph (a) of subsection 3, the state agency that*  
36 *employs the arbitrator may retain money paid by the out-of-*  
37 *network provider or third party pursuant to subsection 7 for the*  
38 *costs of the arbitrator.*

39 9. An out-of-network provider or a third party must pay its own  
40 attorney's fees incurred during the process prescribed by this  
41 section.

42 ~~9.~~ 10. Interest does not accrue on any claim for which an  
43 offer of payment is rejected pursuant to subsection 1 for the period  
44 beginning on the date of the rejection and ending 30 days after the  
45 arbitrator renders a decision.



1 ~~10.]~~ **11.** Except as otherwise provided in this subsection and  
2 NRS 439B.760, any decision of an arbitrator pursuant to this section  
3 and any documents associated with such a decision are confidential  
4 and are not admissible as evidence during a legal proceeding,  
5 including, without limitation, a legal proceeding between the third  
6 party and the out-of-network provider. The decision of an arbitrator  
7 and any documents associated with such a decision may be  
8 disclosed and are admissible as evidence during a legal proceeding  
9 to enforce the decision.

10 **Sec. 2.** The amendatory provisions of this act apply to any  
11 money collected on or after July 1, 2022, by a state agency pursuant  
12 to subsection 8 of NRS 439B.754 to pay the costs of an arbitrator  
13 who is an employee of the state agency.

14 **Sec. 3.** This act becomes effective upon passage and approval.

