

Senate Bill No. 497–Committee on Finance

CHAPTER.....

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:

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

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

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

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

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

2. If an out-of-network provider rejects the amount paid as payment in full, the out-of-network provider must request from the



third party an additional amount which, when combined with the amount previously paid, the out-of-network provider is willing to accept as payment in full for the medically necessary emergency services.

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

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

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

4. Upon receiving the list of randomly selected arbitrators pursuant to subsection 3, the out-of-network provider and the third party shall each strike two arbitrators from the list. If one arbitrator remains, that arbitrator must arbitrate the dispute concerning the amount to be paid for the medically necessary emergency services. If more than one arbitrator remains, an arbitrator randomly selected from the remaining arbitrators by the entity that provided the list of arbitrators pursuant to subsection 3 must arbitrate that dispute.

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

6. The arbitrator shall require:

(a) The out-of-network provider to accept as payment in full for the provision of the medically necessary emergency services, except for any copayment, coinsurance or deductible that the coverage requires the covered person to pay for the services when provided



by an in-network provider, the amount paid by the third party pursuant to subsection 2 of NRS 439B.748 or paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751, as applicable; or

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

7. If the arbitrator requires:

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

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

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

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

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

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

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



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

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