OHIO DEPARTMENT OF INSURANCE
STATE OF OHIO

BULLETIN 2010-03

GUIDANCE GOVERNING INTERPRETATION OF O.R.C. 1751.60
Effective July 16, 2010

The purpose of this Bulletin is to provide guidance to insurance companies and health care providers regarding interpretation of O.R.C. 1751.60, which reads, in pertinent part:

1751.60. Provider or facility to seek compensation for covered services solely from HIC. (A) Except as provided for in divisions (E) and (F) of this section, every provider or health care facility that contracts with a health insuring corporation to provide health care services to the health insuring corporation's enrollees or subscribers shall seek compensation for covered services solely from the health insuring corporation and not, under any circumstances, from the enrollees or subscribers, except for approved copayments and deductibles.

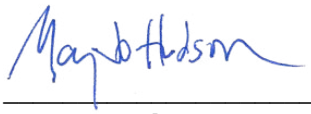
In two recent decisions, the 11th and 6th Appellate District Courts interpreted Section 1751.60 to mean that a health care provider or health care facility may not bill an independent third party, or its insurer, for more than the provider would receive under the negotiated terms of a first party health insuring corporation contract. The Department is seeking to clarify the meaning of the statute in the context of Chapter 1751 of the Ohio Revised Code in order to avoid confusion regarding the statute and the Department's authority.

Chapter 1751 of the Ohio Revised Code governs the licensure and operation of health insuring corporations, including contracting between health insuring corporations and health care providers. Section 1751.60 only applies to provider contracts involving health insuring corporations. It does not apply to providers in relation to coverage offered by sickness and accident insurers licensed under Title 39 of the Revised Code, self-insured health benefit plans, or third party administrators or carriers that administer self insured plans on an "administrative services only" basis.

Section 1751.60 requires that a contract between a health insuring corporation and a health care provider or health care facility include a provision that holds harmless the health insurance corporation's subscriber from provider or facility charges for covered services, except for approved copays and deductibles. This statute prohibits a health care provider or health care facility from balance billing, or seeking compensation from, a subscriber except for approved copayments and deductibles.

Section 1751.60 does not prohibit a health care provider or health care facility from seeking and receiving full payment from a third party or a third party's liability insurer which may be liable for the debt. Rather, Section 1751.60 applies to compensation sought from a subscriber and provides the Department with authority to take action if a violation with respect to a subscriber occurs.

Neither Chapter 1751, nor Section 1751.60, references a private right of action.



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