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Substitute Bill Comparative Synopsis

Sub. H.B. 388

133rd General Assembly

House Finance

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_133_1962-10)
Covered persons and services	
Applies generally to individual providers and emergency facilities.	Applies generally to individual providers, facilities in which clinical laboratory services are performed, emergency facilities, and ambulances.
Clinical laboratory services *not explicitly* included in the bill's provisions regarding unanticipated out-of-network care and emergency services.	Clinical laboratory services *explicitly* included in the bill's provisions regarding unanticipated out-of-network care and emergency services.
No provision.	Defines "ambulance" as any motor vehicle that is used, or is intended to be used, for the purpose of responding to emergency medical situations, transporting emergency patients, and administering emergency medical service to patients before, during, or after transportation *(R.C. 3901.50 and 4765.01).*
No provision.	Defines "clinical laboratory services" as either of the following: ▪ Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or

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	impairment or for the assessment of health; ▪ Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body *(R.C. 3902.50 and 4731.65).*
Negotiation	
Requires a health plan issuer to attempt a good faith negotiation if requested by the individual provider or emergency facility *(R.C. 3902.51(B)(2) and (C)(2)).*	Requires both parties to attempt a good faith negotiation if requested by the individual provider, facility, emergency facility, or ambulance *(R.C. 3902.51(B)(2)).*
Reimbursement	
Requires reimbursement in the greatest of three rates, the first one being the amount negotiated with individual in-network providers or emergency facilities for the service in question, excluding any in-network cost sharing imposed under the health benefit plan *(R.C. 3902.51(B)(1)(a) and (C)(1)(a)).*	Clarifies that the first rate is the amount negotiated with individual in-network providers, facilities, emergency facilities, or ambulances for the service in question *in that geographic region under that health benefit plan*, excluding any in-network cost sharing imposed under the health benefit plan *(R.C. 3902.51(B)(1)(a)).*
Arbitration	
No provision.	Requires an individual provider seeking arbitration to send an arbitration request to the Superintendent of Insurance *(R.C. 3902.52(A)(1)).*
No provision.	Requires individual claims to exceed $750 to be eligible for arbitration, unless bundled; if bundled, total of all claims must exceed $750 *(R.C. 3902.52(A)(1)(b) and (A)(2)(b)).*
Allows an individual provider or emergency facility to bundle up to 25 claims *(R.C. 3902.52(F)).*	Lowers this cap to ten claims *(R.C. 3902.52(A)(2)(a)).*
Requires the health plan issuer's final offer to be the greatest of the in-network, out-of-network, or Medicare rates. Requires each party's final offer to be based solely on the accuracy or inaccuracy of the required reimbursement *(R.C. 3902.52(B).)*	Requires the health plan issuer's final offer to be the greatest of the in-network, out-of-network, or Medicare rates *(R.C. 3902.52(B)(1)).*

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Allows parties to submit any additional supporting documents or information *(R.C. 3902.52(G)).*	Allows parties to submit supporting documents or information *solely* to establish or demonstrate any of the following: ▪ The circumstances, complexity, and severity of the particular case, including the time and place of service; ▪ The usual, customary, and reasonable rate for the service in question; ▪ The amount of the reimbursement required under the bill *(R.C. 3902.52(B)(2)).*
If arbitration does not commence within 90 days of the request, requires the health plan issuer to reimburse the individual provider or emergency facility in the amount of the individual provider's or emergency facility's final offer *(R.C. 3902.52(C)).*	Reduces this time from 90 to 30 days *(R.C. 3902.52(C)).*
Requires the arbitrator to only award one of the party's final offers. In deciding which offer to award, requires the arbitrator to only consider the accuracy or inaccuracy of the required reimbursement *(R.C. 3902.52(D)).*	Requires the arbitrator to only award one of the party's final offers. In deciding which offer to award, requires the arbitrator to consider all submitted documentation. Allows arbitrator to also require the submission of additional documentation pertaining to the following to determine the accuracy or inaccuracy of the required reimbursement: ▪ The distribution of in-network allowed amounts by the health benefit plan for the service in question in the same geographic area; ▪ The distribution of out-of-network allowed amounts by the health benefit plan for the service in question in the same geographic area; ▪ The Medicare reimbursement rate for the service in question in the same geographic area; ▪ The distribution of billed charges and allowed amounts for all health benefit plans for the service in question in the same geographic area *(R.C. 3902.52(D)).*

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Requires the nonprevailing party to pay 70% of the arbitrator's fees and costs of arbitration *(R.C. 3902.52(E)).*	Increases the amount to 100% *(R.C. 3902.52(E)).*
No provision.	Requires any reimbursement and any payment of fees or costs to be paid within ten calendar days following the conclusion of arbitration *(R.C. 3902.52(F)).*
No provision.	Specifies that a final arbitration decision is binding and enforceable in a court of law *(R.C. 3902.52(G)).*
No provision.	Provides that documentation submitted by the parties for arbitration is confidential, privileged, not a public record, and not subject to release *(R.C. 3902.52(H)).*
Superintendent of Insurance	
No provision.	Requires the Superintendent of Insurance to contract with one arbitration entity to perform all arbitrations, but allows the Superintendent to use another entity in specified circumstances *(R.C. 3902.54(A)(1) and (2)).*
No provision.	Requires the Superintendent to ensure that the contracted arbitration entity has access to expertise and knowledge relating to health care and insurance *(R.C. 3902.54(A)(3)).*
No provision.	Requires the Superintendent to require the arbitration entity to use an online portal for arbitration applications and to perform all arbitrations on a flat fee basis *(R.C. 3902.54(A)(3)).*
No provision.	Requires the Superintendent to ensure that the contracted arbitration entity does not have a conflict of interest with the parties to a dispute *(R.C. 3902.54(A)(1)).*

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No provision.	Mandates the Superintendent to require, at a minimum, an initial disclosure and fee from a prospective arbitration entity and an annual disclosure from the contracted entity that contains specified information *(R.C. 3902.54(B) and (C)).*
No provision.	Requires the Superintendent to adopt rules to carry out the bill's provisions and exempts the Superintendent from the requirement that an agency eliminate two rules for each new rule it implements *(R.C. 3902.54(D) and 121.95).*
Violations	
No provision.	Subjects an individual provider who violates the bill's provisions to professional discipline *(R.C. 3902.53(C)).*
Effective date	
Makes the bill's provisions apply on the bill's effective date but contains transition provisions for health benefit plans that are in the middle of a contract term *(Section 2)*.	Delays the application of the bill's provisions to nine months after the bill's effective date and revises the transition provisions accordingly *(Section 2)*.
"Cost sharing" definition	
Includes coverage limits in the definition of "cost sharing" *(R.C. 3902.50(A))*.	Removes coverage limits from the definition of "cost sharing" *(R.C. 3902.50(C))*.

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