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**ORIGINAL**

DIVISIONS OF:  
BANKING  
INSURANCE  
SECURITIES

BULLETIN #84

JULY 17, 1987

BULLETIN TO ALL HEALTH INSURANCE COMPANIES

The attached law was added to the Vermont Statutes by the General Assembly in 1987.

In short, it states that doctors may not bill Medicare recipients for the balance between Medicare approved charges and the physician's normal charge. Exceptions in the bill are for office visits and home visits. There are additional exceptions based upon the patient's income level.

Many companies now writing Medicare Supplement policies are offering coverage greater than the 20% Part B coinsurance amount. Generally these policies pay benefits from 30% of the Medicare approved amount up to 100% of the usual and customary charge.

Since the new law will result in significant claims reductions under those policies, we will expect companies writing plans with the extended benefit levels to file amended, reduced premiums for Vermont policyholders by January 1, 1988.

  
GRETCHEN BABCOCK  
COMMISSIONER

**Vermont Department of Banking, Insurance, Securities & Health Care Administration****BULLETIN 84  
Medicare Supplement Coverage**

July 17, 1987

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Gretchen Babcock

COMMISSIONER OF BANKING AND INSURANCE

**ATTACHMENT****NO. 51. AN ACT RELATING TO PHYSICIANS AND BALANCE BILLING PRACTICES  
(H. 109)**

It is hereby enacted by the General Assembly of the State of Vermont:

**Sec. 1. 33 V.S.A. chapter 39 is added to read:**

CHAPTER 39.MEDICARE AND GENERAL ASSISTANCE BENEFICIARIES;

BALANCE BILLING

3091. DEFINITIONS

For purposes of this chapter:

- (1) Balance bill means to charge to or collect from a Medicare or general assistance beneficiary any amount in excess of the reasonable charge for that service as determined by the United States secretary of health and human services, or the Vermont commissioner of social welfare, as the case may be.
- (2) General assistance beneficiary means a person who receives assistance under chapter 38 of Title 33.
- (3) Medicare beneficiary means a person who is a beneficiary of health insurance under Title XVIII of the Social Security Act.

(4) Physician shall be defined as that word is defined for purposes of Medicare under 42 U.S.C. 1395x(r).

### 3092. BALANCE BILLING PROHIBITED

A physician who agrees to treat a Medicare or general assistance beneficiary shall not balance bill the beneficiary except as hereinafter provided.

### 3093. EXCEPTIONS

The provisions of section 3092 of this title shall not apply and the physician may balance bill a Medicare beneficiary if:

(1) During the calendar year prior to treatment, the Medicare beneficiary (or his or her spouse with whom he or she lived at any time during that year):

(A) received social security benefits or railroad retirement benefits (Tier I treated as Social Security) which were subject to federal income taxation; or

(B) did not receive social security benefits or railroad retirement benefits (Tier I treated as Social Security) but, had such benefits been received, they would have been subject to federal income taxation.

(2) The Medicare beneficiary refuses to sign the statement authorized by section 3094 of this title; or

(3) The service for which the beneficiary is to be billed is either an office or home visit. Office or home visits are listed as procedure codes 90000 through 90170 in the Physicians' Current Procedural Terminology, Fourth Edition (1986) published by the American Medical Association, as amended annually. Office or home visit codes for dentists, podiatrists, optometrists and chiropractors shall be the same (or equivalent) procedure codes used for doctors of medicine or osteopathy.

### 3094. MEDICARE BENEFICIARY TO SIGN STATEMENT

Annually and prior to treatment, a physician may request that a Medicare beneficiary sign a statement prepared in accordance with this section to determine whether or not the beneficiary may be balance billed. The exceptions contained in subdivision (1) of section 3093 of this title shall not apply if the physician does not request that the beneficiary sign the statement. The statement shall be prepared by the office on aging, and shall incorporate the exceptions contained in subdivision (1) of section 3093 of this title.

### 3095. ASSISTANCE WITH CLAIMS REQUIRED

A physician who agrees to treat a Medicare beneficiary shall prepare the Medicare claim for the beneficiary.

### 3096. POSTING

A physician who treats Medicare or general assistance beneficiaries shall post a summary of the provisions of this chapter in a conspicuous place in his or her office. The summary shall include the statement that any person aggrieved by a physician's failure to comply with the provisions of this chapter may contact the office on aging for assistance or file a complaint with the division of registration, licensing and secretarial services within the office of the secretary of state and shall include toll-free telephone numbers to be used for these purposes. The summary shall be written by the office on aging and distributed by the secretary of state.

#### 3097. ADMINISTRATION ENFORCEMENT

(a) A person aggrieved by a violation of the provisions of this chapter may file a complaint with the division of registration, licensing and secretarial services within the office of the secretary of state. The matter shall be heard by the secretary of state, or a hearing officer designated by the secretary, and shall be subject to the provisions of chapter 25 of Title 3 relating to contested cases.

(b) The secretary of state or the hearing officer may, after hearing, impose an administrative penalty of not more than \$50.00 against any physician who violates the provisions of sections 3095 or 3096 of this title relating to assistance and posting.

(c) The secretary of state or the hearing officer may, after hearing, order a physician who balance billed in violation of the provisions of this chapter to make restitution of any monies received from a Medicare or general assistance beneficiary as a result of such billing.

#### 3098. REPORT REQUIRED

On or before January 15 of each year up to and including 1992, the office on aging shall evaluate the effect of this chapter and report its findings to the chairpersons of the senate and house health and welfare committees. At a minimum, the report shall address the following: inquiries or complaints received by the office on aging concerning physician balance billing practices, changes in actual billing of Medicare beneficiaries for physician services, issues relating to access to physician services for beneficiaries, and any other information necessary to enable the committees to assess the effect of this chapter on physicians and beneficiaries. In compiling its report, the office on aging shall consult with the secretary of state, the carrier for Medicare physician services for Vermont, and the professional societies of professions affected by this chapter.

#### **Sec. 2. Notice to physicians**

(a) Prior to the effective date of this Act, the secretary of state shall provide all physicians with the following: the statement and summary required under sections 3094 and 3096 of this title and a form which shall be signed by the physician and returned to the secretary indicating that the physician is aware of the provisions of this Act.

(b) The secretary shall forward the forms to the appropriate professional and occupational regulatory boards as they are returned. Each regulatory board affected by this Act shall maintain a file which contains forms forwarded to it under this section.

Approved: May 15, 1987