Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1591

AN ACT

AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 22; RELATING TO REPORTING OF CLAIMS INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 20, Arizona Revised Statutes, is amended by adding chapter 22, to read:

CHAPTER 22

REPORTING OF CLAIMS INFORMATION

ARTICLE 1. GENERAL PROVISIONS

20-4001. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "EMPLOYER" MEANS ANY PERSON ACTING DIRECTLY AS AN EMPLOYER, OR INDIRECTLY IN THE INTEREST OF AN EMPLOYER, IN RELATION TO AN EMPLOYEE BENEFIT PLAN AND INCLUDES A GROUP OR ASSOCIATION OF EMPLOYERS ACTING FOR AN EMPLOYER IN SUCH CAPACITY.

2. "GOVERNMENTAL ENTITY" MEANS THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

3. "GROUP HEALTH PLAN" HAS THE SAME MEANING PRESCRIBED IN 45 CODE OF FEDERAL REGULATIONS SECTION 160.103 BUT DOES NOT INCLUDE DISABILITY INCOME OR LONG-TERM CARE INSURANCE.

4. "HEALTH INSURANCE ISSUER" MEANS AN INSURANCE INSTITUTION, OR INSURANCE SUPPORT ORGANIZATION THAT IS AUTHORIZED TO TRANSACT INSURANCE IN THIS STATE.

5. "INSURANCE INSTITUTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-2102.

6. "INSURANCE SUPPORT ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 20-2102.

7. "PLAN" MEANS AN EMPLOYEE WELFARE BENEFIT PLAN AS DEFINED IN 29 UNITED STATES CODE SECTION 1002.

8. "PLAN ADMINISTRATOR" MEANS AN ADMINISTRATOR AS DEFINED IN 29 UNITED STATES CODE SECTION 1002.

9. "PLAN SPONSOR" HAS THE SAME MEANING PRESCRIBED IN 29 UNITED STATES CODE SECTION 1002.

10. "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY, TOWN, SCHOOL DISTRICT OR SPECIAL TAXING DISTRICT.

11. "PROTECTED HEALTH INFORMATION" HAS THE MEANING PRESCRIBED IN 45 CODE OF FEDERAL REGULATIONS SECTION 160.103.

20-4002. Applicability

A. THIS CHAPTER APPLIES TO A GOVERNMENTAL ENTITY OR AN EMPLOYER THAT ENTERS INTO A CONTRACT WITH A HEALTH INSURANCE ISSUER THAT RESULTS IN THE HEALTH INSURANCE ISSUER DELIVERING, ISSUING FOR DELIVERY OR RENEWING A GROUP HEALTH PLAN.

B. FOR THE PURPOSES OF THIS CHAPTER, A HEALTH INSURANCE ISSUER SHALL TREAT A GOVERNMENTAL ENTITY OR AN EMPLOYER DESCRIBED BY SUBSECTION A AS A PLAN SPONSOR OR PLAN ADMINISTRATOR.

20-4003. Receipt of and response to request for claim information

A. NO LATER THAN THE THIRTY DAYS AFTER THE DATE A HEALTH INSURANCE ISSUER RECEIVES A WRITTEN REQUEST FOR A WRITTEN REPORT OF CLAIM INFORMATION FROM A PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR, THE HEALTH INSURANCE ISSUER SHALL PROVIDE THE REPORT TO THE REQUESTING PARTY. THE HEALTH INSURANCE ISSUER IS NOT OBLIGATED TO PROVIDE A REPORT UNDER THIS SUBSECTION REGARDING A PARTICULAR EMPLOYER OR GROUP HEALTH PLAN MORE THAN TWICE IN ANY TWELVE-MONTH PERIOD.

B. A HEALTH INSURANCE ISSUER SHALL PROVIDE THE REPORT OF CLAIM INFORMATION IN ONE OF THE FOLLOWING FORMATS:

1. IN A WRITTEN REPORT.

2. THROUGH AN ELECTRONIC FILE TRANSMITTED BY SECURE E-MAIL OR A FILE TRANSFER PROTOCOL SITE.

3. BY MAKING THE REQUIRED INFORMATION AVAILABLE THROUGH A SECURE WEBSITE OR WEB PORTAL ACCESSIBLE BY THE REQUESTING PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR.

C. A REPORT OF CLAIM INFORMATION MUST CONTAIN ALL INFORMATION AVAILABLE TO THE HEALTH INSURANCE ISSUER THAT IS RESPONSIVE TO THE REQUEST MADE UNDER SUBSECTION A OF THIS SECTION, INCLUDING PROTECTED HEALTH INFORMATION, FOR THE THIRTY-SIX MONTH PERIOD PRECEDING THE DATE OF THE REPORT OR THE PERIOD SPECIFIED BY PARAGRAPHS 4, 5 AND 6 OF THIS SUBSECTION, IF APPLICABLE, OR FOR THE ENTIRE PERIOD OF COVERAGE, WHICHEVER PERIOD IS SHORTER. THE REPORT MUST INCLUDE:

1. AGGREGATE PAID CLAIMS EXPERIENCE BY MONTH, INCLUDING CLAIMS EXPERIENCE FOR MEDICAL, DENTAL AND PHARMACEUTICAL BENEFITS, AS APPLICABLE.

2. TOTAL PREMIUM PAID BY MONTH.

3. TOTAL NUMBER OF COVERED EMPLOYEES ON A MONTHLY BASIS BY COVERAGE TIER, INCLUDING WHETHER COVERAGE WAS FOR:

(a) AN EMPLOYEE ONLY.

(b) AN EMPLOYEE WITH DEPENDENTS ONLY.

(c) AN EMPLOYEE WITH A SPOUSE ONLY.

(d) AN EMPLOYEE WITH A SPOUSE AND DEPENDENTS.

4. THE TOTAL DOLLAR AMOUNT OF CLAIMS PENDING AS OF THE DATE OF THE REPORT.

5. A SEPARATE DESCRIPTION AND INDIVIDUAL CLAIMS REPORT FOR ANY INDIVIDUAL WHOSE TOTAL PAID CLAIMS EXCEED FIFTEEN THOUSAND DOLLARS DURING THE TWELVE-MONTH PERIOD PRECEDING THE DATE OF THE REPORT, INCLUDING THE FOLLOWING INFORMATION RELATED TO THE CLAIMS FOR THAT INDIVIDUAL:

(a) A UNIQUE IDENTIFYING NUMBER, CHARACTERISTIC OR CODE FOR THE INDIVIDUAL.

(b) THE AMOUNTS PAID.

(c) DATES OF SERVICE.

(d) APPLICABLE PROCEDURE CODES AND DIAGNOSIS CODES.

6. FOR CLAIMS THAT ARE NOT PART OF THE REPORT DESCRIBED BY PARAGRAPHS 1 THROUGH 5 OF THIS SUBSECTION, A STATEMENT DESCRIBING PRECERTIFICATION REQUESTS FOR HOSPITAL STAYS OF FIVE DAYS OR LONGER THAT WERE MADE DURING THE THIRTY-DAY PERIOD PRECEDING THE DATE OF THE REPORT.

D. A HEALTH INSURANCE ISSUER MAY NOT DISCLOSE PROTECTED HEALTH INFORMATION IN A REPORT OF CLAIM INFORMATION PROVIDED UNDER THIS SECTION IF THE HEALTH INSURANCE ISSUER IS PROHIBITED FROM DISCLOSING THAT INFORMATION UNDER STATE OR FEDERAL LAW THAT IMPOSES MORE STRINGENT PRIVACY RESTRICTIONS THAN THOSE IMPOSED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191). TO WITHHOLD INFORMATION IN ACCORDANCE WITH THIS SUBSECTION, THE HEALTH INSURANCE ISSUER MUST:

1. NOTIFY THE PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR REQUESTING THE REPORT THAT INFORMATION IS BEING WITHHELD.

2. PROVIDE TO THE PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR A LIST OF CATEGORIES OF CLAIM INFORMATION THAT THE HEALTH INSURANCE ISSUER HAS DETERMINED ARE SUBJECT TO THE MORE STRINGENT PRIVACY RESTRICTIONS UNDER STATE OR FEDERAL LAW.

E. A PLAN SPONSOR IS ENTITLED TO RECEIVE PROTECTED HEALTH INFORMATION UNDER SUBSECTION C, PARAGRAPHS 5 AND 6 OF THIS SECTION AND SECTION 20-4004 ONLY AFTER THE AUTHORIZED REPRESENTATIVE OF THE PLAN SPONSOR MAKES TO THE HEALTH INSURANCE ISSUER A CERTIFICATION SUBSTANTIALLY SIMILAR TO THE FOLLOWING:

> I HEREBY CERTIFY THAT THE PLAN DOCUMENTS COMPLY WITH THE REQUIREMENTS OF 45 CODE OF FEDERAL REGULATIONS SECTION 164.504(F)(2) AND THAT THE PLAN SPONSOR WILL SAFEGUARD AND LIMIT THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION THAT THE PLAN SPONSOR MAY RECEIVE FROM THE GROUP HEALTH PLAN TO PERFORM THE PLAN ADMINISTRATION FUNCTIONS.

F. A PLAN SPONSOR THAT DOES NOT PROVIDE THE CERTIFICATION REQUIRED BY SUBSECTION E OF THIS SECTION IS NOT ENTITLED TO RECEIVE THE PROTECTED HEALTH INFORMATION DESCRIBED BY SUBSECTION C, PARAGRAPHS 5 AND 6 OF THIS SECTION AND SECTION 20-4004 BUT IS ENTITLED TO RECEIVE A REPORT OF CLAIM INFORMATION THAT INCLUDES THE INFORMATION DESCRIBED IN SUBSECTION C, PARAGRAPHS 1 THROUGH 4 OF THIS SECTION.

G. IF A REQUEST IS MADE UNDER SUBSECTION A OF THIS SECTION AFTER THE DATE OF TERMINATION OF COVERAGE, THE REPORT MUST CONTAIN ALL INFORMATION AVAILABLE TO THE HEALTH INSURANCE ISSUER AS OF THE DATE OF THE REPORT THAT IS RESPONSIVE TO THE REQUEST, INCLUDING PROTECTED HEALTH INFORMATION AND INFORMATION DESCRIBED IN SUBSECTION C OF THIS SECTION, FOR THE PERIOD DESCRIBED IN SUBSECTION C OF THIS SECTION PRECEDING THE DATE OF TERMINATION OF COVERAGE OR FOR THE ENTIRE POLICY PERIOD, WHICHEVER PERIOD IS SHORTER. NOTWITHSTANDING THIS SUBSECTION, THE REPORT MAY NOT INCLUDE THE PROTECTED HEALTH INFORMATION DESCRIBED IN SUBSECTION C, PARAGRAPHS 5 AND 6 OF THIS SECTION UNLESS A CERTIFICATION HAS BEEN PROVIDED PURSUANT TO SUBSECTION E OF THIS SECTION.

H. A PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR MUST REQUEST A REPORT UNDER SUBSECTION A OF THIS SECTION ON OR BEFORE TWO YEARS AFTER THE DATE OF TERMINATION OF COVERAGE UNDER A GROUP HEALTH PLAN ISSUED BY THE HEALTH INSURANCE ISSUER.

I. A REPORT OF CLAIM INFORMATION PROVIDED UNDER THIS SECTION OR SECTION 20-4004 TO A GOVERNMENTAL ENTITY IS CONFIDENTIAL AND EXEMPT FROM PUBLIC DISCLOSURE UNDER TITLE 39, CHAPTER 1.

20-4004. Request for additional information

A. ON RECEIPT OF THE REPORT PRESCRIBED BY SECTION 20-4003, THE PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR MAY REVIEW THE REPORT AND, NO LATER THAN TEN DAYS AFTER THE DATE THE REPORT IS RECEIVED, MAY MAKE A WRITTEN REQUEST TO THE HEALTH INSURANCE ISSUER FOR ADDITIONAL INFORMATION FOR SPECIFIED INDIVIDUALS.

B. WITH RESPECT TO A REQUEST FOR ADDITIONAL INFORMATION CONCERNING SPECIFIED INDIVIDUALS FOR WHOM CLAIMS INFORMATION HAS BEEN PROVIDED UNDER SECTION 20-4003, SUBSECTION C, PARAGRAPH 5, THE HEALTH INSURANCE ISSUER SHALL PROVIDE ADDITIONAL INFORMATION ON THE PROGNOSIS OR RECOVERY, IF AVAILABLE, AND, FOR INDIVIDUALS IN ACTIVE CASE MANAGEMENT, THE MOST RECENT CASE MANAGEMENT INFORMATION INCLUDING ANY FUTURE EXPECTED COSTS AND TREATMENT PLAN THAT RELATE TO THE CLAIMS FOR THAT INDIVIDUAL.

C. THE HEALTH INSURANCE ISSUER MUST RESPOND TO A REQUEST FOR ADDITIONAL INFORMATION WITHIN FIFTEEN DAYS AFTER THE DATE OF THE REQUEST UNLESS THE REQUESTING PLAN, PLAN SPONSOR OR PLAN ADMINISTRATOR AGREES TO A REQUEST FOR ADDITIONAL TIME.

D. THE HEALTH INSURANCE ISSUER IS NOT REQUIRED TO PRODUCE THE ADDITIONAL INFORMATION DESCRIBED BY THIS SECTION UNLESS A CERTIFICATION HAS BEEN PROVIDED PURSUANT TO SECTION 20-4003, SUBSECTION E.

20-4005. Liability exemption

A HEALTH INSURANCE ISSUER THAT RELEASES INFORMATION, INCLUDING PROTECTED HEALTH INFORMATION, PURSUANT TO THIS CHAPTER HAS NOT VIOLATED A STANDARD OF CARE AND IS NOT LIABLE FOR CIVIL DAMAGES RESULTING FROM, AND IS NOT SUBJECT TO CRIMINAL PROSECUTION FOR, RELEASING THAT INFORMATION.

20-4006. Civil penalty

IF A HEALTH INSURANCE ISSUER DOES NOT COMPLY WITH THIS CHAPTER, THE DIRECTOR SHALL IMPOSE A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS PER DAY FOR EACH DAY THE HEALTH INSURANCE ISSUER IS IN VIOLATION OF THIS CHAPTER. THE DIRECTOR ALSO MAY SUSPEND THE INSURER'S CERTIFICATE OF AUTHORITY UNTIL THE INSURER COMPLIES WITH THIS CHAPTER. NO PENALTY SHALL BE IMPOSED PURSUANT TO THIS SECTION IF NONCOMPLIANCE IS DETERMINED BY THE DIRECTOR TO HAVE BEEN INADVERTENT OR ACCIDENTAL. THE INSURER HAS THE BURDEN OF PROVING THAT THE NONCOMPLIANCE WAS INADVERTENT OR ACCIDENTAL.