OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 9
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Sen. M. Huffman

Effective date: April 12, 2021; certain provisions effective July 1, 2021

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SUMMARY

- Requires a health plan issuer, beginning in July 2020, to release the following to a requesting group policyholder: net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over $30,000, the amount paid toward each claim and claimant health condition.
- Defines a group policyholder as being a policyholder for a health insurance policy covering 50 or more employees who work an average of at least 30 hours per week during a calendar month, or at least 130 hours during the calendar month.
- Applies the disclosure requirement to claims data for the current, or immediately preceding, policy period, as requested by the policyholder.
- Provides protections from civil liability to the health plan issuer in relation to the disclosure of the claims data.
- Makes a series of violations of the act's requirements that, taken together, constitute a pattern or practice, an unfair or deceptive practice in the business of insurance.

DETAILED ANALYSIS

Duty to disclose

The act requires a health plan issuer (see "**Scope**," below), upon request, but not more than once per calendar year per group policyholder, to release to each group policyholder monthly claims data relating to the policy within 30 business days after receiving the request. The data released must include all of the following:

1. The net claims paid or incurred by month;

2. If the group policyholder is an employer, the monthly enrollment data by employee only, employee and spouse, and employee and family. Otherwise, the monthly enrollment data must be provided and organized in a relevant manner.
3. Monthly prescription claims information; and
4. Paid claims over $30,000, including a claim identifier other than the name and date of the occurrence, the amount paid toward each claim, and claimant health condition or diagnosis.

The claims data must be for the current or immediately preceding policy period, as requested by the policyholder.[1]

Protections of the health plan issuer

A health plan issuer that discloses claims data under the act may condition disclosure on an agreement that releases the health plan issuer from civil liability regarding the use of the data. Furthermore, the act stipulates that a health plan issuer is also absolved of civil liability relating to subsequent use of the data. By authorizing disclosure of data, the act does not authorize disclosure of the identity of a particular covered individual or any particular health insurance claim, condition, or diagnosis in violation of federal or state law.[2]

The act entitles a group policyholder to receive protected information only after an authorized representative of the group policyholder certifies that (1) the health plan documents comply with specified federal regulations relating to disclosures and (2) the policyholder will safeguard and limit the disclosure of protected health information (individually identifiable health information). A group policyholder that fails to provide the appropriate certification is not entitled to receive protected health information described in (4) above, but may receive a report of claim information described in (1), (2), and (3), above.[3]

Enforcement

A health plan issuer that commits a series of violations of these requirements that, taken together, constitute a practice or pattern is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance and is subject to sanctions under Ohio Insurance Law.[4]

[1] R.C. 3901.89(A)(2) and (B).

[2] R.C. 3901.89(C), (D), and (E).

[3] R.C. 3901.89(F) and (G) and 45 Code of Federal Regulations (C.F.R.) 164.504(f), not in the act.

[4] R.C. 3901.89(H).

Disclosure of other information

The act specifies that it does not prohibit a health plan issuer from disclosing additional claims information beyond what the act requires.[5]

The act exempts disclosures made in accordance with the act to a group policyholder from the prohibition against an insurance institution, agent, or insurance support organization disclosing personal or privileged information collected or received in connection with an insurance transaction.[6]

Scope

A "health plan issuer" under the act is an entity subject to Ohio Insurance laws or the Superintendent of Insurance's jurisdiction that contracts, or offers to contract, to provide, or pay for, health care services under a health benefit plan. In addition to a sickness and accident insurer, health insuring corporation, fraternal benefit society, self-funded multiple employer welfare arrangement, and nonfederal, government health plan, the act applies to a third party administrator to the extent that the benefits that it administers are subject to Ohio Insurance laws and Rules or the Superintendent's jurisdiction.[7]

Additionally, a "group policyholder" is a policyholder for a health insurance policy covering 50 or more employees who work an average of at least 30 hours per week during a calendar month, or at least 130 hours during a calendar month. The term includes the authorized representative of the group policyholder.[8]

Effective date

The act's provisions take effect July 1, 2021.[9]

HISTORY

Action	Date
Introduced	02-12-19
Reported, S. Insurance & Financial Institutions	03-21-19
Passed Senate (31-0)	03-21-19
Reported, H. Insurance	05-07-19
Re-referred to H. Insurance	10-29-19
Re-Reported, H. Insurance	12-11-19

[5] R.C. 3901.89(I).

[6] R.C. 3904.13(O).

[7] R.C. 3901.89, by reference to R.C. 3922.01(P), not in the act.

[8] R.C. 3901.89(A)(1) and (2).

[9] Section 3.

Action	Date
Passed House (87-6)	12-11-19
Senate refused to concur in House amendments (0-30)	03-04-20
House requested conference committee	03-05-20
Senate acceded to request for conference committee	05-15-20
Senate agreed to conference report (30-0)	12-09-20
House agreed to conference report (81-8)	12-17-20

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