

2018 -- H 8083

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO INSURANCE - UNFAIR COMPETITION AND CLAIMS PRACTICES

Introduced By: Representatives Donovan, Tanzi, Shanley, Morin, and Fogarty

Date Introduced: April 12, 2018

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-29 of the General Laws entitled "Unfair Competition and
2 Practices" is hereby amended by adding thereto the following section:

3 **27-29-14.1. Confidentiality of certain health information.**

4 (a) Any insurance company licensed pursuant to chapter 18, 19, 20, 20.1 or 41 of title 27
5 relating to insurance, shall establish a method of delivery and content control for any summary of
6 payments or benefits forms also known as explanation of benefits forms to be used by all carriers
7 of health insurers in the state. The summary of payment or benefit forms shall be written in an
8 easily readable and understandable format showing the consumers responsibility, if any, for
9 payment of any portion of a health care provider claim. The commissioner shall also provide for
10 the development and use of forms that may be exchanged securely through electronic means.

11 (b)(1) Insurers shall issue common summary of payments forms for each insured member
12 and may establish a standard method of delivery of summary of payments forms. All insurers
13 shall permit the following individuals to choose, in writing, an alternative method of receiving the
14 common summary of payments form:

15 (i) A subscriber who is legally authorized to consent to care for the insured member;

16 (ii) An insured member who is legally authorized to consent to that member's own care;

17 or

18 (iii) Another party who has the exclusive legal authorization to consent to care for the
19 insured member.

1 (2) The alternative methods of receiving the common summary of payments form shall
2 include, but not be limited to:

3 (i) Sending a paper form to the address of the subscriber;

4 (ii) Sending a paper form to the address of the insured member;

5 (iii) Sending a paper form to any alternate address upon request of the insured member;

6 or (iv) Allowing the subscriber, the insured member or both to access the form through
7 electronic means; provided, however, that such access is provided in compliance with any
8 applicable state and federal laws and regulations pertaining to data privacy and security.

9 (c) All insurers shall also permit an individual not authorized under subsection (b) of this
10 section but who is legally authorized to consent to care for an insured member to request, and
11 shall accommodate a reasonable request by such individual to receive, the forms on behalf of the
12 member through any of the alternative methods listed in subsection (b) of this section; provided
13 that, the individual clearly states in writing that the disclosure of all or part of the information
14 could endanger the individual or the insured member. Upon receipt of such a request, insurers
15 shall not inquire as to the reasons for, or otherwise seek to confirm the endangerment.

16 (d) The preferred method of receipt selected pursuant to subsection (b) of this section
17 shall be valid until the insured member submits a request in writing for a different method;
18 provided, however, that an insurer shall not be required to maintain more than one alternate
19 address for a member. Insurers shall comply with an insured member's request pursuant to this
20 subsection not later than three (3) business days after receipt of the request.

21 (e) Insurers shall not specify or describe sensitive health care services in a common
22 summary of payments form. For purposes of this chapter, sensitive health care services shall
23 include the following services which must be suppressed from any summary of payment form:

24 (1) Mental health services;

25 (2) Substance use disorder services, including medication and treatment;

26 (3) Gender transition-related services;

27 (4) Testing, treatment and prevention of sexual transmitted infections (e.g., HPV
28 vaccines);

29 (5) Testing, treatment and prevention of HIV and AIDS (including pre-exposure
30 prophylaxis (PrEP);

31 (6) Hepatitis C testing, treatment and medication;

32 (7) Hepatitis B testing, treatment and medication;

33 (8) Reproductive services;

34 (9) Contraceptive services;

- 1 (10) Fertility services;
- 2 (11) Abortion services;
- 3 (12) Pregnancy testing and counseling on pregnancy options;
- 4 (13) Any visit including assessment of sexual risk, pregnancy intention, and/or
5 reproductive/sexual/pregnancy coercion;
- 6 (14) Services related to sexual assault;
- 7 (15) Domestic violence diagnosis, service, support and counseling;
- 8 (16) Management of abnormal pap smears;
- 9 (17) Diagnosis and treatment of vaginal infections; and
- 10 (18) Prenatal care.

11 The above sensitive health care services may be related to any type of provider
12 encounter, including, but not limited to, evaluation, screening, treatment/service, counseling,
13 management and prescribed medications.

14 (f) In the event that the insured member has no liability for payment for any procedure or
15 service, insurers shall permit all insured members who are legally authorized to consent to care,
16 or parties legally authorized to consent to care for the insured member, to request suppression of
17 common summary of payments forms for a specific service or procedure, in which case the
18 common summary of payments forms shall not be issued; provided, however, that the insured
19 member clearly makes the request orally or in writing. The insurers may request verification of
20 the request in writing following an oral request. Insurers shall not require an explanation as to the
21 basis for an insured member's request to suppress the common summary of payments forms,
22 unless otherwise required by law or court order.

23 (g) The insured member's ability to request the preferred method of receipt pursuant to
24 subsection (b) of this section and to request suppression of the common summary of payments
25 forms pursuant to subsection (f) of this section shall be communicated in plain language and in a
26 clear and conspicuous manner in evidence of coverage documents, member privacy
27 communications and on every common summary of payments form and shall be conspicuously
28 displayed on the insurer's member website and online portals for individual members.

29 (h) The department of business regulation insurance division shall promulgate regulations
30 necessary to implement and enforce this section, which shall include requirements for reasonable
31 reporting by carriers to the division regarding compliance and the number and type of complaints
32 received regarding noncompliance with this section.

33 (i) The department of business regulation, insurance division, in collaboration with the
34 department of health, shall develop and implement a plan to educate providers and consumers

1 regarding the rights of insured members and the responsibilities of insurers to promote
2 compliance with this section.

3 (1) The plan shall include, but not be limited to, staff training and other education for
4 hospitals, community health centers, school-based health centers, physicians, nurses and other
5 licensed health care professionals, as well as administrative staff including, but not limited to:

6 (i) All staff involved in patient registration and confidentiality education; and

7 (ii) Billing staff involved in processing insurance claims.

8 (2) The plan shall be developed in consultation with groups representing health care
9 insurers, providers and consumers, including consumer organizations concerned with the
10 provision of sensitive health services.

11 (j) The provisions of this section, with respect to the suppression of summary of payment
12 forms or information to be included therein, shall supersede all other requirements for other
13 notification of benefits or payment forms provided to insured members and, any provided further,
14 any violation of this section shall be considered an unfair trade practice.

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE - UNFAIR COMPETITION AND CLAIMS PRACTICES

1 This act would provide for the suppression of summary of benefits forms or certain
2 information contained therein when the information would expose the insured to danger for
3 seeking medical care.

4 This act would take effect upon passage.

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