

CHAPTER 110

INSURANCE

SENATE BILL 02-013

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AN ACT**CONCERNING PROMPT PAYMENT OF HEALTH INSURANCE CLAIMS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-16-106.3. Uniform claims - billing codes - electronic claim forms. (1) ON OR BEFORE JULY 1, 2002, ALL CARRIERS SHALL ACCEPT THE CLAIM FORM ADOPTED BY THE AMERICAN DENTAL ASSOCIATION FOR USE BY ALL DENTAL PROVIDERS AND CARRIERS IN THE STATE; AND THE CENTERS FOR MEDICARE AND MEDICAID SERVICES' CLAIM FORMS CMS-1500 AND CMS1450, OTHERWISE KNOWN AS FORM UB-92, AS THE UNIFORM HEALTH CARE CLAIM FORMS FOR USE BY ALL OTHER HEALTH CARE PROVIDERS AND CARRIERS IN THE STATE. ALL CARRIERS SHALL ACCEPT SUCH CLAIM FORMS FROM HEALTH CARE PROVIDERS IN ELECTRONIC FORM. A CARRIER SHALL NOT PROHIBIT SUBMISSION OF HEALTH CARE CLAIMS IN HARD COPY FORM, NOR SHALL A CARRIER BE PROHIBITED FROM REQUIRING THAT A CLAIM BE SUBMITTED IN HARD COPY FORM. A CARRIER SHALL NOT REQUIRE SUBMISSION OF A CLAIM ON A FORM OTHER THAN THOSE SET FORTH IN THIS SECTION, EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION.

(2) ON OR BEFORE JULY 1, 2002, THE COMMISSIONER SHALL ADOPT A UNIFORM LIST OF REQUIRED ELEMENTS TO BE USED ON THE UNIFORM CLAIM FORMS ACCEPTED BY CARRIERS PURSUANT TO THIS SECTION. SUCH ELEMENTS SHALL BE USED BY HEALTH CARE PROVIDERS IN ORDER FOR A CLAIM TO BE CONSIDERED A CLEAN CLAIM.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3) CONCURRENT WITH THE EFFECTIVE DATE FOR IMPLEMENTATION OF THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, AND THE FEDERAL REGULATIONS IMPLEMENTED PURSUANT TO SUCH ACT, AS AMENDED, FOR CLAIMS FILED ELECTRONICALLY, CARRIERS SHALL REQUIRE THE SUBMISSION OF ELECTRONIC CLAIMS WITH THE ELEMENTS IN THE FORMAT REQUIRED BY SUCH ACT AND SUCH REGULATIONS AND SHALL NOT REQUIRE THE SUBMISSION OF FORMS AND ELEMENTS PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION.

SECTION 2. 10-16-106.5 (2), (4) (b), and (5) (b), Colorado Revised Statutes, are amended, and the said 10-16-106.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10-16-106.5. Prompt payment of claims - legislative declaration. (2) As used in this section, "clean claim" means a claim for payment of health care expenses that is submitted to a carrier on the ~~carrier's standard~~ UNIFORM claim form ADOPTED PURSUANT TO SECTION 10-16-106.3 with all required fields completed with correct and complete ~~information in accordance with the carrier's published filing requirements.~~ INFORMATION, INCLUDING ALL REQUIRED DOCUMENTS. A CLAIM REQUIRING ADDITIONAL INFORMATION SHALL NOT BE CONSIDERED A CLEAN CLAIM AND SHALL BE PAID, DENIED, OR SETTLED AS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION. "Clean claim" does not include a claim for payment of expenses incurred during a period of time for which premiums are delinquent, except to the extent otherwise required by law.

(2.7) (a) A POLICYHOLDER, INSURED, OR PROVIDER MAY SUBMIT A CLAIM:

(I) BY UNITED STATES MAIL, FIRST CLASS, OR BY OVERNIGHT DELIVERY SERVICE;

(II) ELECTRONICALLY;

(III) BY FACSIMILE (FAX); OR

(IV) BY HAND DELIVERY.

(b) (I) A CARRIER SHALL MAKE A MECHANISM AVAILABLE TO PROVIDERS THAT SHALL ENABLE A PROVIDER TO CONFIRM THE RECEIPT OF A CLAIM THAT IS FILED WITH THE CARRIER IN A MANNER OTHER THAN ELECTRONICALLY. WITHIN TEN BUSINESS DAYS AFTER THE SUBMISSION OF THE CLAIM AS DETERMINED BY THE PROVIDER, THE CARRIER SHALL LIST SUCH CLAIM ON THE NOTIFICATION MECHANISM AS RECEIVED. THE CLAIM SHALL BE DEEMED RECEIVED ON THE DATE IT IS LISTED ON THE NOTIFICATION MECHANISM BY THE CARRIER. IF A CLAIM IS NOT LISTED ON THE NOTIFICATION MECHANISM, THE PROVIDER MAY CONTACT THE CARRIER FOR THE PURPOSES OF RESUBMISSION OF THE CLAIM. THE CARRIER SHALL HAVE A SEPARATE FACSIMILE PROCESS TO RECEIVE THE RESUBMISSION OF THE PAPER CLAIMS. THE RESUBMITTED CLAIM SHALL BE DEEMED RECEIVED ON THE DATE OF THE FACSIMILE TRANSMISSION ACKNOWLEDGMENT. IF SUCH MECHANISM IS ACCESSIBLE ONLY BY ELECTRONIC MEANS, UPON REQUEST OF THE PROVIDER, THE INFORMATION MUST BE MADE AVAILABLE IN HARD-COPY FORM WITHIN THREE BUSINESS DAYS.

(II) IF THE CLAIM IS SUBMITTED ELECTRONICALLY, THE CLAIM IS PRESUMED TO

HAVE BEEN RECEIVED ON THE DATE OF THE ELECTRONIC VERIFICATION OF RECEIPT BY THE CARRIER OR THE CARRIER'S CLEARINGHOUSE. THE CARRIER OR CARRIER'S CLEARINGHOUSE SHALL PROVIDE A CONFIRMATION WITHIN ONE BUSINESS DAY AFTER SUBMISSION BY A PROVIDER.

(4) (b) If the resolution of a claim requires additional information, the carrier shall, within thirty calendar days after receipt of the claim, give the provider, policyholder, insured, or patient, as appropriate, a full explanation IN WRITING of what additional information is needed TO RESOLVE THE CLAIM, INCLUDING ANY ADDITIONAL MEDICAL OR OTHER INFORMATION RELATED TO THE CLAIM. The person receiving a request for SUCH additional information shall submit all additional information requested by the carrier within thirty calendar days after receipt of such request. Notwithstanding any provision of an indemnity policy to the contrary, the carrier may deny a claim if a provider RECEIVES A REQUEST FOR ADDITIONAL INFORMATION AND fails to timely submit additional information requested under this paragraph (b), SUBJECT TO RESUBMITTAL OF THE CLAIM OR THE APPEALS PROCESS. IF SUCH PERSON HAS PROVIDED ALL SUCH ADDITIONAL INFORMATION NECESSARY TO RESOLVE THE CLAIM, THE CLAIM SHALL BE PAID, DENIED, OR SETTLED BY THE CARRIER WITHIN THE APPLICABLE TIME PERIOD SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (4).

(5) (b) A carrier that fails to pay, deny, or settle a claim in accordance with subsection (4) of this section within ninety days after receiving the claim shall pay to the insured or health care provider, with proper assignment, a penalty in an amount equal to ~~three~~ TEN percent of the total amount ultimately allowed on the claim. Such penalty shall be ~~the~~ IMPOSED on the ninety-first day after receipt of the claim by the carrier.

(c) TO THE EXTENT THAT PENALTIES ARE NOT PAID CONCURRENTLY WITH THE CLAIM, THE PENALTIES IN THIS SECTION MAY BE PAID ON A QUARTERLY BASIS OR WHEN THE AGGREGATE PENALTIES FOR A PROVIDER EXCEEDS TEN DOLLARS.

(7) IF A CARRIER DELEGATES ITS CLAIMS PROCESSING FUNCTIONS TO A THIRD PARTY, THE DELEGATION AGREEMENT SHALL PROVIDE THAT THE CLAIMS PROCESSING ENTITY SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION. ANY DELEGATION BY THE CARRIER SHALL NOT BE CONSTRUED TO LIMIT THE CARRIER'S RESPONSIBILITY TO COMPLY WITH THIS SECTION OR ANY OTHER APPLICABLE SECTION OF THIS ARTICLE.

(8) THIS SECTION SHALL NOT APPLY TO CLAIMS FILED PURSUANT TO THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

SECTION 3. 10-16-106.5 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-16-106.5. Prompt payment of claims - legislative declaration.

(4) (d) (I) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), IF THE CARRIER INTENDS TO PROSPECTIVELY CONDUCT A CHARGE AUDIT, SUCH CARRIER SHALL, NOT LATER THAN THE FORTY-FIFTH DAY AFTER THE DATE THE CARRIER RECEIVES THE CLAIM, PAY THE CHARGES SUBMITTED BY ANY PARTICIPATING INSTITUTIONAL PROVIDER AT A RATE OF AT LEAST EIGHTY-FIVE PERCENT OF THE CONTRACTED RATE ON THE CLAIM, LESS DEDUCTIBLES, COINSURANCE, AND

COPAYMENTS, AND SHALL PAY A NONPARTICIPATING INSTITUTIONAL PROVIDER AT LEAST SIXTY PERCENT OF THE AMOUNT DUE ON THE CLAIM, LESS DEDUCTIBLES, COINSURANCE, AND COPAYMENTS. THE CARRIER SHALL COMPLETE THE CHARGE AUDIT, AND MAKE ANY ADDITIONAL PAYMENT NOT LATER THAN THE NINETIETH DAY AFTER RECEIPT OF A CLAIM.

(II) THE INSTITUTIONAL PROVIDER SHALL ALLOW REASONABLE ACCESS TO THE RECORDS NECESSARY TO CONDUCT THE AUDIT WITHIN THE TIME PERIOD REQUIRED BY THIS PARAGRAPH (d).

(III) FOR THE PURPOSES OF THIS PARAGRAPH (d), "CHARGE AUDIT" MEANS AN AUDIT TO DETERMINE WHETHER DATA IN AN ENROLLEE'S MEDICAL RECORD DOCUMENTS THE HEALTH CARE SERVICES LISTED ON A CLAIM FOR PAYMENT SUBMITTED TO A CARRIER. "CHARGE AUDIT" DOES NOT MEAN A REVIEW OF THE MEDICAL NECESSITY OF THE SERVICES PROVIDED.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 2002