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SENATE BILL DRS45274-MR-60 (03/03)

Short Title: Health Insurance Claims Transparency Act. (Public)

Sponsors: Senator Lee (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR GREATER TRANSPARENCY IN THE REPORTING OF
3 CLAIM INFORMATION UNDER HEALTH BENEFIT PLANS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 58 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 68B.

8 "Health Insurance Claims Transparency.

9 **"§ 58-68B-1. Short title.**

10 This Article shall be known as the "Health Insurance Claims Transparency Act."

11 **"§ 58-68B-2. Definitions.**

12 The following definitions apply in this Article:

13 (1) Employer. – As defined in 29 U.S.C. § 1002(5).

14 (2) Governmental entity. – Any State department, institution, agency, or any
15 political subdivision of the State.

16 (3) Group health plan. – As defined in 45 C.F.R. § 160.103, except that the term
17 does not include disability income or long-term care insurance.

18 (4) Health insurance issuer. – As defined in 45 C.F.R. § 160.103.

19 (5) Plan. – An employee welfare benefit plan, as defined in 29 U.S.C. § 1002(1).

20 (6) Plan administrator. – An administrator, as defined in 29 U.S.C. §
21 1002(16)(A).

22 (7) Plan sponsor. – As defined in 29 U.S.C. § 1002(16)(B).

23 (8) Protected health information. – As defined in 45 C.F.R. § 160.103.

24 **"§ 58-68B-3. Applicability to governmental entities.**

25 (a) This Article applies to a governmental entity that enters into a contract with a health
26 insurance issuer that results in the health insurance issuer delivering, issuing for delivery, or
27 renewing a group health plan.

28 (b) For purposes of this Article, a health insurance issuer shall treat a governmental
29 entity described by subsection (a) of this section as a plan sponsor or plan administrator.

30 (c) A report of claim information provided under this section to a governmental entity
31 is confidential and is not a public record under Chapter 132 of the General Statutes.

32 **"§ 58-68B-4. Response to a request for claim information.**

33 (a) Not later than the thirtieth calendar day after the date a health insurance issuer
34 receives a written request for a written report of claim information from a plan, plan sponsor, or
35 plan administrator, the health insurance issuer shall provide the requesting party the report,
36 subject to subsections (d), (e), and (f) of this section. The health insurance issuer is not



1 obligated to provide a report under this subsection regarding a particular employer or group
2 health plan more than twice in any 12-month period.

3 (b) A health insurance issuer shall provide the report of claim information required
4 under subsection (a) of this section using one of the following methods:

5 (1) A written report.

6 (2) An electronic file transmitted by secure electronic mail or a file transfer
7 protocol site.

8 (3) By making the required information available through a secure Web site or
9 Web portal system accessible by the requesting plan, plan sponsor, or plan
10 administrator.

11 (c) A report of claim information required under subsection (a) of this section must
12 contain all information available to the health insurance issuer that is responsive to the request.
13 To ensure responsiveness to the request, the report of claim information provided under
14 subsection (a) of this section must meet all of the following requirements:

15 (1) A report of claim information must include information for the shorter of the
16 following time periods:

17 a. A 36-month period preceding the date of the report.

18 b. The period specified by subdivision (2) of this subsection, if
19 applicable.

20 c. The entire period of coverage.

21 (2) Subject to subsections (d), (e), and (f) of this section, a report of claim
22 information must include all of the following information:

23 a. Aggregate paid claims experience by month, including claims
24 experience for medical, dental, and pharmacy benefits, as applicable.

25 b. Total premium paid by month.

26 c. Total number of covered employees on a monthly basis by coverage
27 tier, including whether coverage was for any of the following:

28 1. An employee only.

29 2. An employee with dependents only.

30 3. An employee with a spouse only.

31 4. An employee with a spouse and dependents.

32 d. The total dollar amount of claims pending as of the date of the report.

33 e. A separate description and individual claims report for any individual
34 whose total paid claims exceed fifteen thousand dollars (\$15,000)
35 during the 12-month period preceding the date of the report,
36 including all of the following information related to the claims for
37 that individual:

38 1. A unique identifying number, characteristic, or code for the
39 individual.

40 2. The amounts paid.

41 3. Dates of service.

42 4. Applicable procedure codes and diagnosis codes.

43 (3) A report of claims information shall include a statement describing any
44 precertification requests for hospital stays of five days or longer that were
45 made during the 30-day period preceding the date of the report of claims
46 information that have not yet resulted in a claim.

47 (d) A health insurance issuer may not disclose protected health information in a report
48 of claim information if the health insurance issuer is prohibited from disclosing that
49 information under another state or federal law that imposes more stringent privacy restrictions
50 than those imposed under federal law under the Health Insurance Portability and Accountability

1 Act of 1996, P.L. 104-191, as amended. To withhold information in accordance with this
2 subsection, the health insurance issuer must do both of the following:

3 (1) Notify the plan, plan sponsor, or plan administrator requesting the report that
4 information is being withheld.

5 (2) Provide to the plan, plan sponsor, or plan administrator a list of categories of
6 claim information that the health insurance issuer has determined are subject
7 to the more stringent privacy restrictions under another state or federal law.

8 (e) A plan sponsor is entitled to receive protected health information under this section
9 and under G.S. 58-68B-5 only after an appropriately authorized representative of the plan
10 sponsor makes to the health insurance issuer a certification substantially similar to the
11 following certification:

12 "I hereby certify that the plan documents comply with the requirements of 45 C.F.R.
13 Section 164.504(f)(2) and that the plan sponsor will safeguard and limit the use and disclosure
14 of protected health information that the plan sponsor may receive from the group health plan to
15 perform the plan administration functions."

16 (f) A plan sponsor that does not provide the certification required by subsection (e) of
17 this section is not entitled to receive the protected health information described by
18 sub-subdivision e. of subdivision (2) of subsection (c) of this section and G.S. 58-68B-5 but is
19 entitled to receive a report of claim information that includes the remaining nonprotected health
20 information described by subsection (c) of this section.

21 (g) In the case of a request for information made after the date of termination of
22 coverage, the report provided as required under subsection (a) of this section must contain all
23 information available to the health insurance issuer as of the date of the report that is responsive
24 to the request, including the information described by subsection (c) of this section for either (i)
25 the period described in subsection (c) of this section preceding the date of termination of
26 coverage or (ii) the entire policy period, whichever period is shorter. The report may not
27 include protected health information unless a certification has been provided in accordance
28 with subsection (e) of this section.

29 (h) A plan, plan sponsor, or plan administrator must request a report under subsection
30 (a) of this section on or before the second anniversary of the date of termination of coverage
31 under a group health plan issued by the health benefit plan issuer.

32 **"§ 58-68B-5. Requests for additional information.**

33 (a) Not later than the tenth business day after a report required under G.S. 58-68B-4(a)
34 is received, a plan, plan sponsor, or plan administrator may make a written request to the health
35 insurance issuer for additional information in accordance with this section for specified
36 individuals.

37 (b) With respect to a request for additional information concerning specified individuals
38 for whom claims information has been provided under G.S. 58-68B-4(c)(2)e., the health
39 insurance issuer shall provide additional information on the prognosis or recovery if available
40 and, for individuals in active case management, the most recent case management information,
41 including any future expected costs and treatment plan, that relates to the claims for that
42 individual.

43 (c) The health insurance issuer must respond to the request for additional information
44 under this section not later than the fifteenth business day after the date the request is made
45 unless the requesting plan, plan sponsor, or plan administrator agrees to additional time.

46 (d) The health insurance issuer is not required to produce the report described by this
47 section unless a certification has been provided in accordance with G.S. 58-68B-4(e).

48 **"§ 58-68B-10. Compliance with this Article does not create liability.**

49 (a) A health insurance issuer that releases information, including protected health
50 information, in accordance with this Article has not violated a standard of care and is not liable
51 for civil damages resulting from releasing that information.

1 (b) A health insurance issuer that releases information, including protected health
2 information, in accordance with this Article is not subject to criminal prosecution for releasing
3 that information.

4 **"§ 58-68B-15. Penalties.**

5 A health insurance issuer that does not comply with any provision of this Article is subject
6 to civil penalties under G.S. 58-2-70."

7 **SECTION 2.** This act becomes effective October 1, 2017, and applies to reports of
8 claim information requested on or after that date.