



General Assembly

January Session, 2021

Substitute Bill No. 6389



AN ACT CONCERNING EXPLANATIONS OF BENEFITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-477d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2023*):

3 (a) Each insurer, health care center, hospital service corporation,
4 medical service corporation, fraternal benefit society or other entity that
5 delivers, issues for delivery, renews, amends or continues a health
6 insurance policy providing coverage of the type specified in
7 subdivisions (1), (2), (4), (11) and (12) of section 38a-469 in this state,
8 shall:

9 (1) Make available to consumers, in an easily readable, accessible and
10 understandable format; [the]

11 (A) The following information for each such policy: [(A)]

12 (i) Any coverage exclusions; [(B) any]

13 (ii) Any restrictions on the use or quantity of a covered benefit,
14 including on prescription drugs or drugs administered in a physician's
15 office or a clinic; [(C) a]

16 (iii) A specific description of how prescription drugs are included or
17 excluded from any applicable deductible, including a description of

18 other out-of-pocket expenses that apply to such drugs; [(D) the]

19 (iv) The specific dollar amount of any copayment and the percentage
20 of any coinsurance imposed on each covered benefit, including each
21 covered prescription drug; and [(E) information]

22 (v) Information regarding any process available to consumers, and all
23 documents necessary, to seek coverage of a noncovered outpatient
24 prescription drug; and

25 (B) With respect to explanations of benefits issued pursuant to
26 subsections (d) to (i), inclusive, of this section, a statement disclosing
27 that each consumer who is a covered individual and legally capable of
28 consenting to the provision of covered benefits under such policy may
29 specify that such insurer, center, corporation, society or entity, and each
30 third-party administrator, as defined in section 38a-720, providing
31 services to such insurer, center, corporation, society or entity, shall:

32 (i) Not issue explanations of benefits concerning covered benefits
33 provided to such consumer; or

34 (ii) (I) Issue explanations of benefits concerning covered benefits
35 provided to such consumer solely to such consumer; and

36 (II) Use a method specified by such consumer to issue such
37 explanations of benefits solely to such consumer, and provide sufficient
38 space in the statement for such consumer to specify a mailing address
39 or an electronic mail address for such insurer, center, corporation,
40 society, entity or third-party administrator to use to contact such
41 consumer concerning covered benefits provided to such consumer.

42 (2) Make available to consumers a way to determine accurately:

43 (A) [whether] Whether a specific prescription drug is available under
44 such policy's drug formulary;

45 (B) [the] The coinsurance, copayment, deductible or other out-of-

46 pocket expense applicable to such drug;

47 (C) [whether] Whether such drug is covered when dispensed by a
48 physician or a clinic;

49 (D) [whether] Whether such drug requires prior authorization or the
50 use of step therapy;

51 (E) [whether] Whether specific types of health care specialists are in-
52 network; and

53 (F) [whether] Whether a specific health care provider or hospital is
54 in-network.

55 (b) (1) Each insurer, health care center, hospital service corporation,
56 medical service corporation, fraternal benefit society or other entity
57 shall make the information and statement required under subsection (a)
58 of this section available to consumers at the time of enrollment and shall
59 post such information and statement on its Internet web site.

60 (2) The Connecticut Health Insurance Exchange, established
61 pursuant to section 38a-1081, shall post links on its Internet web site to
62 such information and statement for each qualified health plan that is
63 offered or sold through the exchange.

64 (c) The Insurance Commissioner shall post links on the Insurance
65 Department's Internet web site to any on-line tools or calculators to help
66 consumers compare and evaluate health insurance policies and plans.

67 (d) Except as provided in subsection (g) of this section, each insurer,
68 health care center, hospital service corporation, medical service
69 corporation, fraternal benefit society or other entity that delivers, issues
70 for delivery, renews, amends or continues a health insurance policy
71 described in subsection (a) of this section, and each third-party
72 administrator, as defined in section 38a-720, providing services to such
73 an insurer, center, corporation, society or entity, shall:

74 (1) Issue explanations of benefits to consumers who are covered
75 individuals under the policy; and

76 (2) Permit each consumer who is a covered individual under the
77 policy and legally capable of consenting to the provision of covered
78 benefits to specify, in writing, that such insurer, center, corporation,
79 society, entity or third-party administrator issue explanations of
80 benefits concerning covered benefits provided to such consumer solely
81 to such consumer, and specify, in writing, which of the following
82 methods such insurer, center, corporation, society, entity or third-party
83 administrator shall use to issue such explanations of benefits solely to
84 such consumer:

85 (A) Mailing such explanations of benefits to such consumer's mailing
86 address or another mailing address specified by such consumer;

87 (B) Sending such explanations of benefits to such consumer by
88 electronic means, including, but not limited to, electronic mail; or

89 (C) Making such explanations of benefits available to such consumer
90 by electronic means, provided making such explanations of benefits
91 available solely to such consumer by electronic means complies with all
92 applicable federal and state laws and regulations concerning data
93 security, including, but not limited to, 45 CFR Part 160, as amended from
94 time to time, and 45 CFR Part 164, Subparts A and C, as amended from
95 time to time.

96 (e) Each method specified by a consumer, in writing, pursuant to
97 subdivision (2) of subsection (d) of this section shall be valid until the
98 consumer submits a written specification to the insurer, center,
99 corporation, society, entity or third-party administrator for a different
100 method. Such insurer, center, corporation, society, entity or third-party
101 administrator shall comply with a written specification under this
102 subsection or subdivision (2) of subsection (d) of this section, as
103 applicable, not later than three business days after such insurer, center,
104 corporation, society, entity or third-party administrator receives such

105 specification.

106 (f) Each insurer, center, corporation, society, entity or third-party
107 administrator that receives a written specification from a consumer
108 pursuant to subdivision (2) of subsection (d) of this section or subsection
109 (e) of this section, as applicable, shall provide the consumer who made
110 such specification with written confirmation that such insurer, center,
111 corporation, society, entity or third-party administrator received such
112 specification, and advise such consumer, in writing, regarding the status
113 of such specification if such consumer contacts such insurer, center,
114 corporation, society, entity or third-party administrator, in writing,
115 regarding such specification.

116 (g) Each consumer who is a covered individual under a policy
117 described in subsection (a) of this section and is legally capable of
118 consenting to the provision of covered benefits may specify, in writing,
119 that the insurer, center, corporation, society or entity that delivered,
120 issued for delivery, renewed, amended or continued the policy, or a
121 third-party administrator providing services to such insurer, center,
122 corporation, society or entity, not issue explanations of benefits
123 pursuant to subsections (d) to (f), inclusive, of this section if such
124 explanations of benefits concern covered benefits that were provided to
125 such consumer. Such insurer, center, corporation, society, entity or
126 third-party administrator shall not require such consumer to provide
127 any explanation regarding the basis for such consumer's specification,
128 unless such explanation is required by applicable law or pursuant to an
129 order issued by a court of competent jurisdiction.

130 (h) Each insurer, center, corporation, society or entity that delivers,
131 issues for delivery, renews, amends or continues a policy described in
132 subsection (a) of this section, and each third-party administrator
133 providing services to such insurer, center, corporation, society or entity,
134 shall disclose to each consumer who is a covered individual under the
135 policy such consumer's ability to submit specifications pursuant to
136 subsections (d) to (g), inclusive, of this section. Such disclosure shall be
137 in plain language and displayed or printed, as applicable, clearly and

138 conspicuously in all evidence of coverage documents, privacy
 139 communications, explanations of benefits and Internet web sites that are
 140 maintained by such insurer, center, corporation, society, entity or third-
 141 party administrator and accessible to consumers in this state.

142 (i) No insurer, center, corporation, society or entity that is subject to
 143 subsections (d) to (h), inclusive, of this section shall require a consumer
 144 or policyholder to waive any right to limit disclosure under subsections
 145 (d) to (h), inclusive, of this section as a precondition to delivering,
 146 issuing for delivery, renewing, amending or continuing a policy
 147 described in subsection (a) of this section to the consumer or
 148 policyholder. Nothing in this subsection or subsections (d) to (h),
 149 inclusive, of this section shall be construed to limit a consumer's or
 150 policyholder's ability to request review of an adverse determination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2023	38a-477d

Statement of Legislative Commissioners:

In Subsec. (a)(1)(B), "subsections (d) to (i), inclusive," was substituted for "subsection (d)" for internal consistency; in Subsec. (d), Subsec. (d)(1) was redesignated Subsec. (d), Subsec. (d)(1)(A) was redesignated Subsec. (d)(1), Subsec. (d)(1)(B)(i) was redesignated Subsec. (d)(2), Subsec. (d)(1)(B)(i)(I) was redesignated Subsec. (d)(2)(A), Subsec. (d)(1)(B)(i)(II) was redesignated Subsec. (d)(2)(B), Subsec. (d)(1)(B)(i)(III) was redesignated Subsec. (d)(2)(C), Subsec. (d)(1)(B)(ii) was redesignated Subsec. (e), Subsec. (d)(1)(B)(iii) was redesignated Subsec. (f), Subsec. (d)(2) was redesignated Subsec. (g), Subsec. (d)(3) was redesignated Subsec. (h) and Subsec. (d)(4) was redesignated Subsec. (i) for consistency with standard drafting conventions; in Subsec. (d), "subsection (g) of this section" was substituted for "subdivision (2) of this subsection" for internal consistency; in Subsec. (e), "subdivision (2) of subsection (d) of this section" was substituted for "subparagraph (B)(i) of this subdivision", and "this subsection or subdivision (2) of subsection (d) of this section" was substituted for "this clause or subparagraph (B)(i) of this subdivision", for internal consistency; in Subsec. (f), "subdivision (2) of subsection (d) of this

section or subsection (e) of this section" was substituted for "subparagraph (B)(i) or (B)(ii) of this subdivision" for internal consistency; in Subsec. (g), "subsections (d) to (f), inclusive, of this section" was substituted for "subdivision (1) of this subsection" for internal consistency; in Subsec. (h), "subsections (d) to (g), inclusive, of this section" was substituted for "subdivisions (1) and (2) of this subsection" for internal consistency; and in Subsec. (i), "subsections (d) to (h), inclusive, of this section" was substituted for "this subsection" in two instances, and "or subsections (d) to (h), inclusive, of this section" was added, for internal consistency.

INS *Joint Favorable Subst. -LCO*