

CHAPTER 20

(SB 194)

AN ACT relating to electronic delivery of health plan communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Communications" includes health insurance identification cards and other documents;*

(b) *"Covered person" means an individual that:*

1. *Is an employer-sponsored group member or a dependent of an employer-sponsored group member; and*
2. *Receives health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract;*

(c) *"Dependent of an employer-sponsored group member" or "dependents of an employer-sponsored group member" means an individual or individuals that are entitled to receive health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract solely due to a relationship to an employer-sponsored group member;*

(d) *"Employer" does not include a federal, state, or local government, including a:*

1. *Federal, state, or local government entity, agency, or instrumentality; and*
2. *Public school district or public institution of education;*

(e) *"Employer-sponsored group health insurance policy, certificate, plan, or contract" includes limited-scope dental or vision benefits offered by an employer under a separate insurance policy, certificate, plan, or contract;*

(f) *"Employer-sponsored group member" means an individual that is entitled to receive health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract as a member of the insured group; and*

(g) *"Insurer" has the same meaning as in KRS 304.17A-005, except for purposes of this section, the term does not include a self-insurer of a governmental plan.*

(2) *Notwithstanding any other law, an insurer may deliver all communications relating to an employer-sponsored group health insurance policy, certificate, plan, or contract to a covered person by electronic means if:*

(a) *The employer consents to electronic delivery of communications on behalf of the covered person; and*

(b) *The insurer complies with subsection (4) of this section.*

(3) *An employer may consent to the electronic delivery of communications under subsection (2) of this section if the employer confirms the following for the covered person:*

(a) *The covered person is:*

1. *An employer-sponsored group member that routinely uses electronic communications during the normal course of employment or otherwise; or*
2. *A dependent of an employer-sponsored group member referenced in subparagraph 1. of this paragraph; and*

(b) *Either:*

1. *If the covered person is an employer-sponsored group member, the covered person:*

- a. *Was given an opportunity to opt out of delivery to the employer-sponsored group member and dependents of the employer-sponsored group member by electronic means; and*
 - b. *Will be given an opportunity to opt out of delivery to the employer-sponsored group member and dependents of the employer-sponsored group member by electronic means on an annual basis; or*
 2. *If the covered person is not an employer-sponsored group member, the covered person is a dependent of an employer-sponsored group member referenced in subparagraph 1. of this paragraph.*
 - (4) *Insurers that provide electronic delivery of communications under this section shall:*
 - (a) *Comply with the:*
 1. *Federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et seq.; and*
 2. *Uniform Electronic Transactions Act, KRS 369.101 to 369.120;*
 - (b) *Not take adverse action against a covered person because the person opts out, or is opted out, of electronic delivery of communications under this section; and*
 - (c) *Document compliance with this section.*
- ➔Section 2. This Act applies to contracts entered or renewed on or after the effective date of this Act.

Signed by Governor March 29, 2024.