

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 351

Senator LaRose

Cosponsors: Senators Lehner, Thomas

A BILL

To amend section 3904.13 and to enact section 1
3901.88 of the Revised Code to require health 2
plan issuers to release certain claim 3
information to group plan policyholders. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3904.13 be amended and section 5
3901.88 of the Revised Code be enacted to read as follows: 6

Sec. 3901.88. (A) As used in this section: 7

(1) "Health plan issuer" has the same meaning as in 8
section 3922.01 of the Revised Code. 9

(2) "Group policyholder" includes an authorized 10
representative of a group policyholder. 11

(B) (1) A health plan issuer shall, upon request, release 12
to each group policyholder claims data and shall provide this 13
data within fourteen business days of receipt of the request. 14

(2) The data released shall include all of the following 15
with regard to the policy in question for the policy period 16

immediately preceding or the current policy period, as requested 17
by the policyholder: 18

(a) The net claims paid by month; 19

(b) (i) If the group policyholder is an employer, the 20
monthly enrollment by employee only, employee and spouse, and 21
employee and family; 22

(ii) If the group policyholder is not an employer, the 23
monthly enrollment shall be provided and organized in a relevant 24
manner. 25

(c) The amount of any claims reserve established by the 26
health plan issuer against future claims under the policy; 27

(d) Claims over ten thousand dollars, including claim 28
identifier other than name and the date of occurrence, the 29
amount paid toward each claim, which claims are unpaid or 30
outstanding, and claimant health condition or diagnosis; 31

(e) A complete listing of all potential catastrophic 32
diagnoses and prognoses involving persons covered under the 33
policy provisions. 34

(C) A health plan issuer that discloses data or 35
information in compliance with division (B) of this section may 36
condition any such disclosure upon the execution of an agreement 37
with the policyholder absolving the health plan issuer from 38
civil liability related to the use of such data or information. 39

(D) A health plan issuer that provides data or information 40
in compliance with division (B) of this section shall be immune 41
from civil liability for any acts or omissions of any person's 42
subsequent use of such data or information. 43

(E) This section shall not be construed as authorizing the 44

disclosure of the identity of a particular individual covered 45
under the group policy, nor the disclosure of any covered 46
individual's particular health insurance claim, condition, 47
diagnosis, or prognosis, which would violate federal or state 48
law. 49

(F) A group policyholder is entitled to receive protected 50
health information under this section only after an 51
appropriately authorized representative of the group 52
policyholder makes to the health plan issuer a certification 53
substantially similar to the following: 54

"I hereby certify and have demonstrated that the plan 55
documents comply with the requirements of 45 C.F.R. 164.504(f) 56
(2) and that the group policyholder will safeguard and limit the 57
use and disclosure of protected health information that the 58
policyholder may receive from the group health plan to perform 59
plan administration functions." 60

(G) A group policyholder that does not provide the 61
certification required in division (F) of this section is not 62
entitled to receive the protected health information described 63
in division (B) (2) (d) and (e) of this section, but is entitled 64
to receive a report of claim information that includes the other 65
information described under division (B) of this section. 66

(H) A health plan issuer that fails to comply with the 67
requirements of this section is deemed to have engaged in an 68
unfair and deceptive act or practice in the business of 69
insurance and is subject to sections 3901.19 to 3901.26 of the 70
Revised Code. 71

Sec. 3904.13. No insurance institution, agent, or 72
insurance support organization shall disclose any personal or 73

privileged information about an individual collected or received 74
in connection with an insurance transaction, unless the 75
disclosure is made pursuant to any of the following: 76

(A) With the written authorization of the individual, 77
provided: 78

(1) If such authorization is submitted by another 79
insurance institution, agent, or insurance support organization, 80
the authorization meets the requirements of section 3904.06 of 81
the Revised Code; 82

(2) If such authorization is submitted by a person other 83
than an insurance institution, agent, or insurance support 84
organization, the authorization is dated, signed by the 85
individual, and obtained one year or less prior to the date a 86
disclosure is sought under this division. 87

(B) To a person other than an insurance institution, 88
agent, or insurance support organization, provided such 89
disclosure is reasonably necessary for the following reasons: 90

(1) To enable such person to perform a business, 91
professional, or insurance function for the disclosing insurance 92
institution, agent, or insurance support organization, and such 93
person agrees not to disclose the information further without 94
the individual's written authorization unless the further 95
disclosure either: 96

(a) Would otherwise be permitted by this section if made 97
by an insurance institution, agent, or insurance support 98
organization; 99

(b) Is reasonably necessary for such person to perform ~~its~~ 100
the person's function for the disclosing insurance institution, 101
agent, or insurance support organization. 102

(2) To enable such person to provide information to the	103
disclosing insurance institution, agent, or insurance support	104
organization for the purpose of either:	105
(a) Determining an individual's eligibility for an	106
insurance benefit or payment;	107
(b) Detecting or preventing criminal activity, fraud,	108
material misrepresentation, or material nondisclosure in	109
connection with an insurance transaction.	110
(C) To an insurance institution, agent, insurance support	111
organization, or self-insurer, provided the information	112
disclosed is limited to that which is reasonably necessary	113
either:	114
(1) To detect or prevent criminal activity, fraud,	115
material misrepresentation, or material nondisclosure in	116
connection with insurance transactions;	117
(2) For either the disclosing or receiving insurance	118
institution, agent, or insurance support organization to perform	119
its function in connection with an insurance transaction	120
involving the individual.	121
(D) To a medical care institution or medical professional	122
for the purpose of verifying insurance coverage or benefits,	123
informing an individual of a medical problem of which the	124
individual may not be aware, or conducting an operations or	125
services audit to verify the individuals treated by the medical	126
professional or at the medical care institution. However, only	127
such information may be disclosed as is reasonably necessary to	128
accomplish any of the purposes set forth in this division.	129
(E) To an insurance regulatory authority;	130

(F) To a law enforcement or other governmental authority	131
to protect the interests of the insurance institution, agent, or	132
insurance support organization in preventing or prosecuting the	133
perpetration of fraud upon it; or if the insurance institution,	134
agent or insurance support organization reasonably believes that	135
illegal activities have been conducted by the individual;	136
(G) As otherwise permitted or required by law;	137
(H) In response to a facially valid administrative or	138
judicial order, including a search warrant or subpoena;	139
(I) Made for the purpose of conducting actuarial or	140
research studies, provided the following conditions are met:	141
(1) No individual may be identified in any actuarial or	142
research report;	143
(2) Materials allowing the individual to be identified are	144
returned or destroyed as soon as they are no longer needed;	145
(3) The actuarial or research organization agrees not to	146
disclose the information unless the disclosure would otherwise	147
be permitted by this section if made by an insurance	148
institution, agent, or insurance support organization.	149
(J) To a party or representative of a party to a proposed	150
or consummated sale, transfer, merger, or consolidation of all	151
or part of the business of the insurance institution, agent, or	152
insurance support organization, provided the following	153
conditions are met:	154
(1) Prior to the consummation of the sale, transfer,	155
merger, or consolidation, only such information is disclosed as	156
is reasonably necessary to enable the recipient to make business	157
decisions about the purchase, transfer, merger, or	158

consolidation;	159
(2) The recipient agrees not to disclose the information,	160
unless the disclosure would otherwise be permitted by this	161
section if made by an insurance institution, agent, or insurance	162
support organization.	163
(K) To a person whose only use of such information will be	164
in connection with the marketing of a product or service,	165
provided the following conditions are met:	166
(1) No medical record information, privileged information,	167
or personal information relating to an individual's character,	168
personal habits, mode of living, or general reputation is	169
disclosed, and no classification derived from such information	170
is disclosed;	171
(2) The individual has been given an opportunity to	172
indicate that he <u>the individual</u> does not want personal	173
information disclosed for marketing purposes and has given no	174
indication that he <u>the individual</u> does not want the information	175
disclosed;	176
(3) The person receiving such information agrees not to	177
use it except in connection with the marketing of a product or	178
service.	179
(L) To an affiliate whose only use of the information will	180
be in connection with an audit of the insurance institution or	181
agent or the marketing of an insurance product or service,	182
provided the affiliate agrees not to disclose the information	183
for any other purpose or to unaffiliated persons;	184
(M) By a consumer reporting agency, provided the	185
disclosure is to a person other than an insurance institution or	186
agent;	187

(N) To a group policyholder for the purpose of reporting 188
claims experience or conducting an audit of the insurance 189
institution's or agent's operations or services, provided the 190
information disclosed is reasonably necessary for the group 191
policyholder to conduct the review or audit; 192

(O) To a group policyholder as provided in section 3901.88 193
of the Revised Code; 194

(P) To a professional peer review organization for the 195
purpose of reviewing the service or conduct of a medical care 196
institution or medical professional; 197

~~(P)~~(Q) To a governmental authority for the purpose of 198
determining the individual's eligibility for health benefits for 199
which the governmental authority may be liable; 200

~~(Q)~~(R) To a certificate holder or policyholder for the 201
purpose of providing information regarding the status of an 202
insurance transaction; 203

~~(R)~~(S) To a lienholder, mortgagee, assignee, lessor, or 204
other person shown on the records of an insurance institution or 205
agent as having a legal or beneficial interest in a policy of 206
insurance, provided the following conditions are met: 207

(1) No medical record information is disclosed unless the 208
disclosure would otherwise be permitted by this section; 209

(2) The information disclosed is limited to that which is 210
reasonably necessary to permit such person to protect its 211
interests in such policy. 212

Section 2. That existing section 3904.13 of the Revised 213
Code is hereby repealed. 214

Section 3. Sections 1 and 2 of this act take effect 215

January 1, 2017.

216