
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1253 Session of
2024

INTRODUCED BY DiSANTO, STREET, FONTANA, BREWSTER AND VOGEL,
JUNE 7, 2024

REFERRED TO BANKING AND INSURANCE, JUNE 7, 2024

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, providing for electronic notice of insurance
3 practices.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 40 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 47

9 ELECTRONIC NOTICE OF INSURANCE PRACTICES

10 Sec.

11 4701. Scope and construction of chapter.

12 4702. Definitions.

13 4703. Electronic delivery of insurance notices or documents.

14 4704. Changes in hardware or software requirements.

15 4705. Affect, validity and enforceability of insurance notices
16 or documents.

17 4706. Withdrawal of consent.

18 4707. Prior consent for electronic delivery of insurance

1 notices or documents.

2 4708. Alternative methods of delivery.

3 4709. Limitation on civil liability.

4 4710. Delivery of insurance policies and endorsements.

5 § 4701. Scope and construction of chapter.

6 This chapter relates to electronic notice of insurance
7 practices and shall not be construed as imposing requirements on
8 health benefit plans subject to ERISA.

9 § 4702. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Covered person." An individual who is entitled to receive
14 health care services under a health benefit plan.

15 "Deliver by electronic means." Any of the following:

16 (1) The delivery to an email address at which a covered
17 person has consented to receive a notice or document from an
18 insurer.

19 (2) A post on an electronic network or website
20 accessible via the Internet, mobile device or application,
21 tablet or any other electronic device, including a separate
22 notice of the post by delivery to an email address at which a
23 covered person has consented to receive a notice or document
24 or by any other delivery method that has been consented by
25 the covered person, which contains the Internet address at
26 which the notice or document is posted. For purposes of this
27 definition, delivery shall be effective upon the post or
28 actual delivery of the separate notice of the post as
29 specified under this paragraph.

30 "ERISA." Employee Retirement Income Security Act of 1974

1 (Public Law 93-406, 88 Stat. 829).

2 "Health benefit plan." A policy, contract, certificate or
3 agreement entered into, offered by or issued by an insurer to
4 provide, deliver or arrange for, pay for or reimburse any of the
5 costs of health care services, including a vision or dental
6 benefit plan or a self-insured plan not subject to ERISA.

7 "Insurer." An insurance company, association or exchange or
8 any other entity subject to the jurisdiction of the department.

9 "Plan sponsor." A person or entity that establishes, adopts
10 or maintains a health benefit plan on behalf of a covered
11 person.

12 § 4703. Electronic delivery of insurance notices or documents.

13 (a) Transactions.--Subject to the requirements of this
14 section, an insurer may deliver by electronic means a notice to
15 a covered person required by Federal or State law in a
16 transaction with the insurer or in a manner that serves as
17 evidence of insurance coverage in accordance with the act of
18 December 16, 1999 (P.L.971, No.69), known as the Electronic
19 Transactions Act.

20 (b) Effect of delivery.--The delivery of a notice or
21 document in accordance with this section shall be considered the
22 equivalent to and having the same effect as a delivery method
23 required by Federal or State law, including delivery by first
24 class mail, first class mail with postage prepaid, certified
25 mail, certificate of mail or certificate mailing.

26 (c) Consent from covered persons.--An insurer may deliver by
27 electronic means a notice or document to a covered person in
28 accordance with this section if all of the following apply:

29 (1) The covered person has affirmatively consented
30 electronically or confirmed consent electronically in a

1 manner that reasonably demonstrates that the covered person
2 can access information in the electronic form that will be
3 used for a notice or document delivered by electronic means,
4 and the covered person has not withdrawn the consent.

5 (2) Before the covered person gives the consent required
6 under paragraph (1), the insurer provides the covered person
7 with a clear and conspicuous statement informing the covered
8 person of all of the following:

9 (i) The hardware and software requirements for
10 access to and retention of a notice or document delivered
11 by electronic means.

12 (ii) The types of notices and documents for which
13 the covered person may consent to receive by delivery by
14 electronic means.

15 (iii) The right of the covered person to withdraw
16 consent to having a notice or document delivered by
17 electronic means at any time and the conditions or
18 consequences imposed in the event consent is withdrawn.

19 (iv) The procedures necessary for the covered person
20 to withdraw consent to having a notice or document
21 delivered by electronic means, which shall be no more
22 burdensome than the procedures required to provide
23 consent under paragraph (1), and the manner in which the
24 covered person can update the covered person's email
25 address for the purposes of this subsection.

26 (v) The right of a covered person to have a notice
27 or document delivered by the insurer upon request in
28 paper form.

29 (vi) The right of a covered person to request that
30 personal health information be treated and communicated

1 confidentially and the process by which a covered person
2 may receive the confidential communication of personal
3 health information delivered by electronic means.

4 (d) Consent from plan sponsors.--A plan sponsor may, on
5 behalf of each covered person, provide consent to the delivery
6 by electronic means of communications related to the plan from
7 an insurer.

8 (e) Duties of plan sponsors.--Before consenting on behalf of
9 a covered person under subsection (d), a plan sponsor shall have
10 the following duties:

11 (1) To the extent applicable, confirm that the covered
12 person routinely uses electronic communications during the
13 normal course of employment and is able to access and retain
14 electronic communications that may be delivered by an insurer
15 to a personal email address used by a covered person.

16 (2) Inform the covered person that the consent will be
17 provided and a notice or document related to the health
18 benefit plan may be delivered by electronic means unless the
19 covered person affirmatively opts out of delivery by
20 electronic means or provides an alternative email address.

21 (f) Duties of insurers for health benefit plans.--Before
22 providing delivery by electronic means of a notice or document
23 related to a health insurance plan, an insurer for the plan
24 shall have the following duties:

25 (1) Provide a clear and conspicuous statement informing
26 a covered person enrolled in the plan of all of the
27 following:

28 (i) The types of notices and documents that may be
29 delivered by electronic means to the covered person.

30 (ii) The right of the covered person to withdraw

1 consent to having a notice or document delivered by
2 electronic means at any time without charge.

3 (iii) The procedures necessary for the covered
4 person to withdraw consent to having a notice or document
5 delivered by electronic means and the manner in which the
6 covered person can update the covered person's email
7 address for the purposes of this subsection.

8 (iv) The right of the covered person to have a
9 notice or document delivered by the insurer upon request
10 in paper form without charge.

11 (2) Provide an opportunity for a covered person enrolled
12 in the plan to opt out of delivery by electronic means.

13 (3) Certify that the insurer is complying with the
14 applicable provisions of this chapter, the Electronic
15 Transactions Act, 45 CFR 164.530(c) (relating to
16 administrative requirements) and other applicable provisions
17 of Federal law regarding technical safeguards such as
18 encryption.

19 § 4704. Changes in hardware or software requirements.

20 After a covered person provides consent in accordance with
21 section 4703 (relating to electronic delivery of insurance
22 notices or documents), if a change in the hardware or software
23 requirements necessary to access or retain a notice or document
24 to be delivered by electronic means creates a material risk that
25 the covered person will not be able to access or retain the
26 notice or document for which the consent applies, an insurer may
27 not deliver by electronic means a notice or document to the
28 covered person unless the insurer complies with the requirements
29 of section 4703 and provides the covered person with a statement
30 that describes all of the following:

1 (1) The revised hardware and software requirements for
2 access to and retention of a document delivered by electronic
3 means.

4 (2) The right of the covered person to withdraw consent
5 without the imposition of a condition or consequence that was
6 not disclosed at the time of initial consent.

7 § 4705. Affect, validity and enforceability of insurance
8 notices or documents.

9 (a) Content of notices or documents.--Nothing in this
10 chapter shall be construed to affect requirements related to
11 content of an insurance notice or document or the timing related
12 to the notice or document required under any other provision of
13 Federal or State law.

14 (b) Confirmation receipts.--If any other applicable Federal
15 or State law requires confirmation of the receipt of a notice or
16 document from a covered person or plan sponsor of a health
17 benefit plan, an insurer shall only deliver by electronic means
18 a notice or document if the method for delivery provides for an
19 active confirmation receipt by the covered person or plan
20 sponsor.

21 (c) Prior consent.--This chapter shall not apply to a notice
22 or document delivered by electronic means by an insurer before
23 the effective date of this subsection to a covered person who,
24 prior to the effective date of this subsection, provided consent
25 to the insurer to receive a notice or document delivered by
26 electronic means from the insurer.

27 (d) Validity or enforceability.--The validity or
28 enforceability of a contract or policy of an insurer executed by
29 a covered person shall not be denied solely because of the
30 failure of the insurer to obtain electronic consent or

1 confirmation of consent of the covered person in accordance with
2 this chapter if the notice or document is delivered in paper
3 form.

4 § 4706. Withdrawal of consent.

5 (a) Procedures.--No later than 30 days after the effective
6 date of this subsection, an insurer shall develop procedures by
7 which a covered person may withdraw consent to receive a notice
8 or documents delivered by electronic means.

9 (b) Legality.--Withdrawal of consent by a covered person to
10 receive a notice or document delivered by electronic means from
11 an insurer shall not affect the legality or enforceability of a
12 notice or document delivered by electronic means to the covered
13 person before the withdrawal of consent takes effect.

14 (c) Effect.--Withdrawal of consent by a covered person to
15 receive a notice or document delivered by electronic means from
16 an insurer shall take effect within a reasonable period of time
17 after the insurer receives notice of the covered person's
18 withdrawal.

19 (d) Noncompliance.--Failure by an insurer to comply with any
20 provision of section 4703 (relating to electronic delivery of
21 insurance notices or documents) or 4704 (relating to changes in
22 hardware or software requirements) may be treated at the
23 election of a covered person as a withdrawal of consent for
24 purposes of this chapter.

25 § 4707. Prior consent for electronic delivery of insurance
26 notices or documents.

27 If an insurer has a documented record from a covered person
28 indicating approval by the covered person for a notice or
29 document to be delivered by electronic means from the insurer
30 before the effective date of this section and the insurer

1 intends to deliver by electronic means an additional notice or
2 document under this chapter, prior to providing the additional
3 notice or document for delivery by electronic means, the insurer
4 shall comply with sections 4703 (relating to electronic delivery
5 of insurance notices or documents) and 4704 (relating to changes
6 in hardware or software requirements) and provide the covered
7 person with a statement that describes the following:

8 (1) A list of each notice or document that will be
9 delivered by electronic means that was not previously
10 delivered by electronic means.

11 (2) The covered person's right to withdraw consent for
12 the delivery by electronic means of a notice or document
13 without imposition of a condition or consequence that was not
14 previously disclosed to the covered person.

15 § 4708. Alternative methods of delivery.

16 (a) Alternative methods.--An insurer shall deliver a notice
17 or document to a covered person by any other method that was
18 authorized by Federal or State law before the effective date of
19 this subsection other than delivery by electronic means if
20 either of the following occurs:

21 (1) The insurer attempts to deliver the notice or
22 document by electronic means and has a reasonable basis for
23 believing that the notice or document has not been received
24 by the covered person.

25 (2) The insurer becomes aware that the email address
26 provided by the covered person to the insurer is no longer
27 valid.

28 (b) Confidentiality.--Nothing in this chapter shall be
29 construed to preclude the ability of a covered person to request
30 confidential communication of the covered person's protected

1 health information as permitted by the Health Insurance
2 Portability and Accountability Act of 1996 (Public Law 104-191,
3 110 Stat. 1936).

4 (c) Construction.--Nothing in this chapter shall be
5 construed to preclude the ability of an insurer to deliver a
6 notice or document to a covered person by any method authorized
7 by Federal or State law.

8 § 4709. Limitation on civil liability.

9 An insurer shall not be civilly liable for any harm or injury
10 that occurs due to a covered person electing to receive a notice
11 or document for delivery by electronic means or due to any of
12 the following:

13 (1) The insurer's failure to deliver by electronic means
14 a notice or document if the insurer has a reasonable belief
15 that the covered person does not require an alternative
16 method of delivery under section 4708 (relating to
17 alternative methods of delivery).

18 (2) The covered person's failure to receive a notice or
19 document delivered by electronic means.

20 § 4710. Delivery of insurance policies and endorsements.

21 (a) Authorization.--An insurer may mail, deliver or, if the
22 the plan sponsor obtains a separate specific consent, post on
23 the insurer's publicly accessible Internet website an insurance
24 policy and endorsement that does not contain any personally
25 identifiable information.

26 (b) Internet website posting requirements.--If an insurer
27 elects to post an insurance policy and endorsement on the
28 insurer's publicly accessible Internet website, in lieu of
29 mailing or delivering the policy and endorsement to the insured,
30 the plan sponsor shall have the following duties:

1 (1) The insurer shall ensure that the policy and
2 endorsement are accessible to the plan sponsor and producer
3 of record and remains accessible while the policy is in
4 effect.

5 (2) After the expiration of the policy, the insurer
6 shall do one of the following:

7 (i) Make the expired policy and endorsement
8 available upon request for a period of no less than five
9 years.

10 (ii) If the insurer continues to make the expired
11 policy or endorsement available on the insurer's publicly
12 accessible Internet website, keep the plan sponsor's user
13 identification active for a period of no less than five
14 years.

15 (c) Printable format.--If an insurer elects to post an
16 insurance policy and endorsement on the insurer's publicly
17 accessible Internet website in lieu of mailing or delivering the
18 policy and endorsement to the covered person, the insurer shall
19 post the policy and endorsement in a manner that enables the
20 plan sponsor and producer of record to print and save the policy
21 and endorsement using a program or application that is widely
22 available on the Internet and free to use.

23 (d) Description.--The insurer shall provide the following
24 information to the plan sponsor in or simultaneous with each
25 declaration page provided at the time of issuance of an initial
26 insurance policy and each renewal of the policy:

27 (1) A description of the exact policy and endorsement
28 form purchased by the plan sponsor.

29 (2) A description of the plan sponsor's right to receive
30 upon request and without charge an electronic or paper copy

1 of the policy and endorsement.

2 (3) The publicly accessible Internet website at which
3 the policy and endorsement are posted by the insurer.

4 (e) Paper copies.--Upon request by a plan sponsor, the
5 insurer shall mail a paper copy of the plan sponsor's insurance
6 policy and endorsement. The insurer shall mail the first paper
7 copy of the insurance policy and endorsement to the plan sponsor
8 without charge, but may impose a fee on each subsequent request
9 for a paper copy.

10 (f) Notice of change.--An insurer shall provide a notice,
11 via electronic means or in writing at the plan sponsor's option,
12 of all of the following to the plan sponsor:

13 (1) A change to the insurance policy and endorsement.

14 (2) The plan sponsor's right to obtain, upon request and
15 without charge after receipt of the initial copy, a paper
16 copy of the insurance policy and endorsement and the publicly
17 accessible Internet website at which the policy and
18 endorsement are posted.

19 (g) Construction.--Nothing in this section shall be
20 construed to affect or change any of the following pertaining to
21 the time or content of a disclosure or document required to be
22 provided to a plan sponsor under Federal or State law.

23 Section 2. This act shall take effect in 60 days.