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SENATE BILL 1840

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 56; Title 63 and Title 68, relative to the handling of certain insured information.

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Carrier":

(A) Means a health insurance entity as defined in § 56-7-109; and

(B) Does not include:

(i) An employer purchasing coverage or acting on behalf of its employees or the employees of one (1) or more subsidiaries or affiliated corporations of the employer; or

(ii) An entity that offers a policy, certificate, or contract that is not a health benefit plan;

(2) "Health benefit plan":

(A) Means a policy, contract, certificate, or agreement offered or issued by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services; and

(B) Does not include individually underwritten health insurance policies, or policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement as defined in § 1882(g)(1) of the Social Security Act (42

U.S.C. § 1395ss(g)(1)), specified disease, vision care, other limited benefit health insurance, coverage issued as a supplement to liability insurance, workers' compensation insurance, automobile medical payment insurance, or insurance that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

(3) "Healthcare services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical, behavioral, substance use disorder, or mental health condition, illness, injury, or disease;

(4) "Provider" means any person or entity performing services regulated pursuant to title 63 or title 68, chapter 11; and

(5) "Subscriber" means the person obligated under a health benefit plan for payment of premiums, or whose employment is the basis for eligibility in the health benefit plan.

(b) The department shall develop a common summary of payments form to be used by all carriers operating in this state and provided to insureds with respect to provider claims submitted to a payer. The common summary of payments form must be written in an easily readable and understandable format showing the insured's responsibility, if any, for payment of any portion of a healthcare provider claim. The department shall allow the development and use of forms that may be exchanged securely through electronic means. Carriers are not obligated to issue a common summary of payments form for provider claims that consist solely of requests for co-payment.

(c)

(1) Carriers shall issue common summary of payments forms at the member level for each insured. Carriers may establish a standard method of delivery of common summary of payments forms. All carriers shall permit the following individuals to choose, in writing, an alternative method of receiving the common summary of payments form:

(A) A subscriber who is legally authorized to consent to care for the insured;

(B) An insured who is legally authorized to consent to that insured's own care; or

(C) Another party who has the exclusive legal authorization to consent to care for the insured.

(2) The alternative methods of receiving the common summary of payments form must include, but not be limited to:

(A) Sending a paper form to the address of the subscriber;

(B) Sending a paper form to the address of the insured;

(C) Sending a paper form to any alternate address upon request of the insured; or

(D) Allowing the subscriber, the insured, or both to access the form through electronic means if that access is provided in compliance with any applicable state and federal laws and regulations pertaining to data privacy and security, including, but not limited to, subpart A of 45 CFR 160 and subpart C of 45 CFR 164.

(d) All carriers shall also permit an individual not authorized under subsection (c), but who is legally authorized to consent to care for the insured, to request, and shall accommodate a reasonable request by the individual to receive, the forms on behalf of the insured through any of the alternative methods enumerated in subsection (c) if the individual clearly states in writing that the disclosure of all or part of the information could endanger the individual or the insured. Upon receipt of the request, carriers shall not inquire as to the reasons for, or otherwise seek to confirm, the endangerment.

(e) The preferred method of receipt selected pursuant to subsection (c) is valid until the insured submits a request in writing for a different method. However, a carrier is not required to maintain more than one (1) alternate address for the insured. Carriers shall comply with the insured's request pursuant to this subsection (e) not later than three (3) business days after receipt of the request.

(f)

(1) Carriers shall not specify or describe sensitive healthcare services in a common summary of payments form.

(2) The department shall define sensitive healthcare services for the purposes of this subsection (f) by rule. In determining the definition, the department shall consider the recommendations of the National Committee on Vital and Health Statistics and similar regulations in other states and shall consult with experts in fields, including, but not limited to, infectious disease, reproductive and sexual health, domestic violence and sexual assault, and mental health and substance use disorders.

(g) If the insured has no liability for payment for any procedure or service, then carriers shall permit all insureds who are legally authorized to consent to care, or parties legally authorized to consent to care for the insured, to request suppression of common summary of payments forms for a specific service or procedure, in which case the common summary of payments forms shall not be issued as long as the insured clearly makes the request orally or in writing. The carrier may request verification of the request in writing following an oral request. A carrier shall not require an explanation as to the basis for the insured's request to suppress the common summary of payments forms, unless otherwise required by law or court order.

(h) The insured's ability to request the preferred method of receipt pursuant to subsection (c) and to request suppression of the common summary of payments forms pursuant to subsection (g) must be communicated in plain language and in a clear and conspicuous manner in evidence of coverage documents, member privacy communications, and on every common summary of payments form, and must be conspicuously displayed on the carrier's member website and online portals for individual insureds.

(i) The department shall issue guidance as necessary to implement and enforce this section, which must include requirements for reasonable reporting by carriers to the department regarding compliance and the number and type of complaints received regarding noncompliance with this section.

(j)

(1) The department, in collaboration with the department of health, shall develop and implement a plan to educate providers and consumers regarding the rights of insureds and the responsibilities of carriers to promote compliance with this section.

(2) The plan must include, but not be limited to, staff training and other education for hospitals, community health centers, school-based health centers, physicians, nurses, and other licensed healthcare professionals, as well as administrative staff, including, but not limited to:

(A) All staff involved in patient registration and confidentiality education; and

(B) Billing staff involved in processing insurance claims.

(3) The plan must be developed in consultation with groups representing carriers, providers, and consumers, including consumer organizations concerned with the provision of sensitive healthcare services.

(k) This section does not supersede any law related to the informed consent of minors.

SECTION 2. The commissioner of commerce and insurance may promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. For purposes of subsections (i) and (j) in Section 1, developing the form, and promulgating necessary rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2021, the public welfare requiring it.