

By: Smithee

H.B. No. 2015

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the reporting of claim information under certain group
3 health plans; providing administrative penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 8, Insurance Code, is amended
6 by adding Chapter 1215 to read as follows:

7 CHAPTER 1215. REPORTING OF CLAIMS INFORMATION

8 Sec. 1215.001. DEFINITIONS. (a) Except as provided by
9 Subsection (b), in this chapter:

10 (1) "Employer" has the meaning assigned by 29 U.S.C.
11 Section 1002(5).

12 (2) "Governmental entity" means a state agency or
13 political subdivision of this state.

14 (3) "Group health plan" has the meaning assigned by 45
15 C.F.R. Section 160.103, except that the term does not include
16 disability income or long-term care insurance.

17 (4) "Health insurance issuer" has the meaning assigned
18 by 45 C.F.R. Section 160.103.

19 (5) "Plan" means an employee welfare benefit plan as
20 defined by 29 U.S.C. Section 1002(1).

21 (6) "Plan administrator" means an administrator as
22 defined by 29 U.S.C. Section 1002(16)(A).

23 (7) "Plan sponsor" has the meaning assigned by 29
24 U.S.C. Section 1002(16)(B).

1 (8) "Political subdivision" means a county,
2 municipality, school district, special-purpose district, or other
3 subdivision of state government that has jurisdiction limited to a
4 geographic portion of the state.

5 (9) "Protected health information" has the meaning
6 assigned by 45 C.F.R. Section 160.103.

7 (b) A reference to a federal statute or regulation under
8 Subsection (a) means that statute or regulation as it existed on
9 September 1, 2007, except that the commissioner, by rule, may adopt
10 a definition based on a later amended, enacted, or adopted federal
11 statute or regulation if the commissioner determines that use of
12 the later amended, enacted, or adopted statute or regulation is
13 consistent with the purposes of this chapter and promotes
14 regulatory consistency.

15 Sec. 1215.002. APPLICABILITY OF CHAPTER TO GOVERNMENTAL
16 ENTITY; APPLICABILITY OF OTHER LAW WITH REFERENCE TO GOVERNMENTAL
17 ENTITY. (a) This chapter applies to a governmental entity that
18 enters into a contract with a health insurance issuer that results
19 in the health insurance issuer delivering, issuing for delivery, or
20 renewing a group health plan.

21 (b) For purposes of this chapter, a health insurance issuer
22 shall treat a governmental entity described by Subsection (a) as a
23 plan sponsor or plan administrator.

24 (c) A report of claim information provided under this
25 section to a governmental entity is confidential and exempt from
26 public disclosure under Chapter 552, Government Code.

27 Sec. 1215.003. RECEIPT OF AND RESPONSE TO REQUEST FOR CLAIM

1 INFORMATION. (a) Not later than the 30th day after the date a
2 health insurance issuer receives a written request for a written
3 report of claim information from a plan, plan sponsor, or plan
4 administrator, the health insurance issuer shall provide the
5 requesting party the report, subject to Subsections (d), (e), and
6 (f). The health insurance issuer is not obligated to provide a
7 report under this subsection regarding a particular employer or
8 group health plan more than twice in any 12-month period.

9 (b) A health insurance issuer shall provide the report of
10 claim information under Subsection (a):

11 (1) in a written report;

12 (2) through an electronic file transmitted by secure
13 electronic mail or a file transfer protocol site; or

14 (3) by making the required information available
15 through a secure website or web portal accessible by the requesting
16 plan, plan sponsor, or plan administrator.

17 (c) A report of claim information provided under Subsection
18 (a) must contain all information available to the health insurance
19 issuer that is responsive to the request made under Subsection (a),
20 including, subject to Subsections (d), (e), and (f), protected
21 health information, for the 36-month period preceding the date of
22 the report or the period specified by Subdivisions (4), (5), and
23 (6), if applicable, or for the entire period of coverage, whichever
24 period is shorter. Subject to Subsections (d), (e), and (f), a
25 report provided under Subsection (a) must include:

26 (1) aggregate paid claims experience by month,
27 including claims experience for medical, dental, and pharmacy

1 benefits, as applicable;

2 (2) total premium paid by month;

3 (3) total number of covered employees on a monthly
4 basis by coverage tier, including whether coverage was for:

5 (A) an employee only;

6 (B) an employee with dependents only;

7 (C) an employee with a spouse only; or

8 (D) an employee with a spouse and dependents;

9 (4) the total dollar amount of claims pending as of the
10 date of the report;

11 (5) a separate description and individual claims
12 report for any individual whose total paid claims exceed \$15,000
13 during the 12-month period preceding the date of the report,
14 including the following information related to the claims for that
15 individual:

16 (A) a unique identifying number, characteristic,
17 or code for the individual;

18 (B) the amounts paid;

19 (C) dates of service; and

20 (D) applicable procedure codes and diagnosis
21 codes; and

22 (6) for claims that are not part of the report
23 described by Subdivisions (1)-(5), a statement describing
24 precertification requests for hospital stays of five days or longer
25 that were made during the 30-day period preceding the date of the
26 report.

27 (d) A health insurance issuer may not disclose protected

1 health information in a report of claim information provided under
2 this section if the health insurance issuer is prohibited from
3 disclosing that information under another state or federal law that
4 imposes more stringent privacy restrictions than those imposed
5 under federal law under the Health Insurance Portability and
6 Accountability Act of 1996 (Pub. L. No. 104-191). To withhold
7 information in accordance with this subsection, the health
8 insurance issuer must:

9 (1) notify the plan, plan sponsor, or plan
10 administrator requesting the report that information is being
11 withheld; and

12 (2) provide to the plan, plan sponsor, or plan
13 administrator a list of categories of claim information that the
14 health insurance issuer has determined are subject to the more
15 stringent privacy restrictions under another state or federal law.

16 (e) A plan sponsor is entitled to receive protected health
17 information under Subsections (c)(5) and (6) and Section 1215.004
18 only after an appropriately authorized representative of the plan
19 sponsor makes to the health insurance issuer a certification
20 substantially similar to the following certification:

21 "I hereby certify that the plan documents comply with the
22 requirements of 45 C.F.R. Section 164.504(f)(2) and that the plan
23 sponsor will safeguard and limit the use and disclosure of
24 protected health information that the plan sponsor may receive from
25 the group health plan to perform the plan administration
26 functions."

27 (f) A plan sponsor that does not provide the certification

1 required by Subsection (e) is not entitled to receive the protected
2 health information described by Subsections (c)(5) and (6) and
3 Section 1215.004, but is entitled to receive a report of claim
4 information that includes the information described by Subsections
5 (c)(1)-(4).

6 (g) In the case of a request made under Subsection (a) after
7 the date of termination of coverage, the report must contain all
8 information available to the health insurance issuer as of the date
9 of the report that is responsive to the request, including
10 protected health information, and including the information
11 described by Subsections (c)(1)-(6), for the period described by
12 Subsection (c) preceding the date of termination of coverage or for
13 the entire policy period, whichever period is shorter.
14 Notwithstanding this subsection, the report may not include the
15 protected health information described by Subsections (c)(5) and
16 (6) unless a certification has been provided in accordance with
17 Subsection (e).

18 (h) A plan, plan sponsor, or plan administrator must request
19 a report under Subsection (a) before or on the second anniversary of
20 the date of termination of coverage under a group health plan issued
21 by the health benefit plan issuer.

22 Sec. 1215.004. REQUEST FOR ADDITIONAL INFORMATION. (a) On
23 receipt of the report required by Section 1215.003(a), the plan,
24 plan sponsor, or plan administrator may review the report and, not
25 later than the 10th day after the date the report is received, may
26 make a written request to the health insurance issuer for
27 additional information in accordance with this section for

1 specified individuals.

2 (b) With respect to a request for additional information
3 concerning specified individuals for whom claims information has
4 been provided under Section 1215.003(c)(5), the health insurance
5 issuer shall provide additional information on the prognosis or
6 recovery if available and, for individuals in active case
7 management, the most recent case management information, including
8 any future expected costs and treatment plan, that relate to the
9 claims for that individual.

10 (c) The health insurance issuer must respond to the request
11 for additional information under this section not later than the
12 15th day after the date of the request under this section unless the
13 requesting plan, plan sponsor, or plan administrator agrees to a
14 request for additional time.

15 (d) The health insurance issuer is not required to produce
16 the report described by this section unless a certification has
17 been provided in accordance with Section 1215.003(e).

18 Sec. 1215.005. COMPLIANCE WITH CHAPTER DOES NOT CREATE
19 LIABILITY. A health insurance issuer that releases information,
20 including protected health information, in accordance with this
21 chapter has not violated a standard of care and is not liable for
22 civil damages resulting from, and is not subject to criminal
23 prosecution for, releasing that information.

24 Sec. 1215.006. ADMINISTRATIVE PENALTIES. A health
25 insurance issuer that does not comply with this chapter is subject
26 to administrative penalties under Chapter 84.

27 SECTION 2. The following laws are repealed:

1 (1) Article 21.49-15, Insurance Code;

2 (2) Chapter 1209, Insurance Code; and

3 (3) Section 1501.614, Insurance Code.

4 SECTION 3. The change in law made by this Act applies only
5 to a report of claim information that is requested on or after
6 January 1, 2008. A report of claim information that is requested
7 before January 1, 2008, is governed by the law as it existed before
8 the effective date of this Act, and that law is continued in effect
9 for that purpose.

10 SECTION 4. This Act takes effect September 1, 2007.