

As Reported by the House Insurance Committee

133rd General Assembly

Regular Session

2019-2020

Am. S. B. No. 9

Senator Huffman, M.

Cosponsors: Senators Terhar, Roegner, Eklund, Brenner, Hottinger, Antonio, Burke, Coley, Craig, Dolan, Gavarone, Hackett, Hill, Hoagland, Kunze, Lehner, Maharath, Manning, McColley, Obhof, O'Brien, Peterson, Rulli, Schuring, Thomas, Wilson, Yuko Representative Antani

A BILL

To amend section 3904.13 and to enact section 1
3901.89 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
3901.89 of the Revised Code be enacted to read as follows: 6

Sec. 3901.89. (A) As used in this section: 7

(1) "Full-time employee" means an employee working an 8
average of at least thirty hours of service per week during a 9
calendar month, or at least one hundred thirty hours of service 10
during the calendar month. 11

(2) "Group policyholder" means a policyholder for a health 12
insurance policy covering fifty or more full-time employees. 13
"Group policyholder" includes an authorized representative of a 14
group policyholder. 15

(3) "Health plan issuer" has the same meaning as in 16
section 3922.01 of the Revised Code. 17

(B)(1)(a) A health plan issuer shall, upon request, 18
release to each group policyholder monthly claims data and shall 19
provide this data within thirty business days of receipt of the 20
request. 21

(b) A health plan issuer shall not be required to release 22
claims information as required in division (B)(1)(a) of this 23
section more than once per calendar year per group policyholder. 24

(2) The data released shall include all of the following 25
with regard to the policy in question for the policy period 26
immediately preceding or the current policy period, as requested 27
by the policyholder: 28

(a) The net claims paid or incurred by month; 29

(b)(i) If the group policyholder is an employer, the 30
monthly enrollment data by employee only, employee and spouse, 31
and employee and family; 32

(ii) If the group policyholder is not an employer, the 33
monthly enrollment data shall be provided and organized in a 34
relevant manner. 35

(c) Monthly prescription claims information; 36

(d) Paid claims over thirty thousand dollars along with 37
both of the following: 38

(i) Claim identifier other than name and the date of 39
occurrence; 40

(ii) The amount paid toward each claim. 41

(C) A health plan issuer that discloses data or 42

information in compliance with division (B) of this section may 43
condition any such disclosure upon the execution of an agreement 44
with the policyholder absolving the health plan issuer from 45
civil liability related to the use of such data or information. 46

(D) A health plan issuer that provides data or information 47
in compliance with division (B) of this section shall be immune 48
from civil liability for any acts or omissions of any person's 49
subsequent use of such data or information. 50

(E) This section shall not be construed as authorizing the 51
disclosure of the identity of a particular individual covered 52
under the group policy, nor the disclosure of any covered 53
individual's particular health insurance claim, condition, or 54
diagnosis, which would violate federal or state law. 55

(F) A group policyholder is entitled to receive protected 56
health information under this section only after an 57
appropriately authorized representative of the group 58
policyholder makes to the health plan issuer a certification 59
substantially similar to the following: 60

"I hereby certify and have demonstrated that the plan 61
documents comply with the requirements of 45 C.F.R. 164.504(f) 62
(2) and that the group policyholder will safeguard and limit the 63
use and disclosure of protected health information that the 64
policyholder may receive from the group health plan to perform 65
plan administration functions." 66

(G) A group policyholder that does not provide the 67
certification required in division (F) of this section is not 68
entitled to receive the protected health information described 69
in division (B) (2) (d) of this section, but is entitled to 70
receive a report of claim information that includes the other 71

information described under division (B) of this section. 72

(H) Committing a series of violations of this section 73
that, taken together, constitute a practice or pattern shall be 74
considered an unfair or deceptive practice under sections 75
3901.19 to 3901.26 of the Revised Code. 76

(I) Nothing in this section shall be construed as 77
prohibiting a health plan issuer from disclosing additional 78
claims information beyond what is required by this section. 79

Sec. 3904.13. No insurance institution, agent, or 80
insurance support organization shall disclose any personal or 81
privileged information about an individual collected or received 82
in connection with an insurance transaction, unless the 83
disclosure is made pursuant to any of the following: 84

(A) With the written authorization of the individual, 85
provided: 86

(1) If such authorization is submitted by another 87
insurance institution, agent, or insurance support organization, 88
the authorization meets the requirements of section 3904.06 of 89
the Revised Code; 90

(2) If such authorization is submitted by a person other 91
than an insurance institution, agent, or insurance support 92
organization, the authorization is dated, signed by the 93
individual, and obtained one year or less prior to the date a 94
disclosure is sought under this division. 95

(B) To a person other than an insurance institution, 96
agent, or insurance support organization, provided such 97
disclosure is reasonably necessary for the following reasons: 98

(1) To enable such person to perform a business, 99

professional, or insurance function for the disclosing insurance 100
institution, agent, or insurance support organization, and such 101
person agrees not to disclose the information further without 102
the individual's written authorization unless the further 103
disclosure either: 104

(a) Would otherwise be permitted by this section if made 105
by an insurance institution, agent, or insurance support 106
organization; 107

(b) Is reasonably necessary for such person to perform ~~its~~ 108
the person's function for the disclosing insurance institution, 109
agent, or insurance support organization. 110

(2) To enable such person to provide information to the 111
disclosing insurance institution, agent, or insurance support 112
organization for the purpose of either: 113

(a) Determining an individual's eligibility for an 114
insurance benefit or payment; 115

(b) Detecting or preventing criminal activity, fraud, 116
material misrepresentation, or material nondisclosure in 117
connection with an insurance transaction. 118

(C) To an insurance institution, agent, insurance support 119
organization, or self-insurer, provided the information 120
disclosed is limited to that which is reasonably necessary 121
either: 122

(1) To detect or prevent criminal activity, fraud, 123
material misrepresentation, or material nondisclosure in 124
connection with insurance transactions; 125

(2) For either the disclosing or receiving insurance 126
institution, agent, or insurance support organization to perform 127

its function in connection with an insurance transaction 128
involving the individual. 129

(D) To a medical care institution or medical professional 130
for the purpose of verifying insurance coverage or benefits, 131
informing an individual of a medical problem of which the 132
individual may not be aware, or conducting an operations or 133
services audit to verify the individuals treated by the medical 134
professional or at the medical care institution. However, only 135
such information may be disclosed as is reasonably necessary to 136
accomplish any of the purposes set forth in this division. 137

(E) To an insurance regulatory authority; 138

(F) To a law enforcement or other governmental authority 139
to protect the interests of the insurance institution, agent, or 140
insurance support organization in preventing or prosecuting the 141
perpetration of fraud upon it; or if the insurance institution, 142
agent or insurance support organization reasonably believes that 143
illegal activities have been conducted by the individual; 144

(G) As otherwise permitted or required by law; 145

(H) In response to a facially valid administrative or 146
judicial order, including a search warrant or subpoena; 147

(I) Made for the purpose of conducting actuarial or 148
research studies, provided the following conditions are met: 149

(1) No individual may be identified in any actuarial or 150
research report; 151

(2) Materials allowing the individual to be identified are 152
returned or destroyed as soon as they are no longer needed; 153

(3) The actuarial or research organization agrees not to 154
disclose the information unless the disclosure would otherwise 155

be permitted by this section if made by an insurance 156
institution, agent, or insurance support organization. 157

(J) To a party or representative of a party to a proposed 158
or consummated sale, transfer, merger, or consolidation of all 159
or part of the business of the insurance institution, agent, or 160
insurance support organization, provided the following 161
conditions are met: 162

(1) Prior to the consummation of the sale, transfer, 163
merger, or consolidation, only such information is disclosed as 164
is reasonably necessary to enable the recipient to make business 165
decisions about the purchase, transfer, merger, or 166
consolidation; 167

(2) The recipient agrees not to disclose the information, 168
unless the disclosure would otherwise be permitted by this 169
section if made by an insurance institution, agent, or insurance 170
support organization. 171

(K) To a person whose only use of such information will be 172
in connection with the marketing of a product or service, 173
provided the following conditions are met: 174

(1) No medical record information, privileged information, 175
or personal information relating to an individual's character, 176
personal habits, mode of living, or general reputation is 177
disclosed, and no classification derived from such information 178
is disclosed; 179

(2) The individual has been given an opportunity to 180
indicate that ~~he~~ the individual does not want personal 181
information disclosed for marketing purposes and has given no 182
indication that ~~he~~ the individual does not want the information 183
disclosed; 184

(3) The person receiving such information agrees not to use it except in connection with the marketing of a product or service.

(L) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons;

(M) By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent;

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

(O) To a group policyholder as provided in section 3901.89 of the Revised Code;

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

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

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

~~(R)~~ (S) To a lienholder, mortgagee, assignee, lessor, or

other person shown on the records of an insurance institution or	213
agent as having a legal or beneficial interest in a policy of	214
insurance, provided the following conditions are met:	215
(1) No medical record information is disclosed unless the	216
disclosure would otherwise be permitted by this section;	217
(2) The information disclosed is limited to that which is	218
reasonably necessary to permit such person to protect its	219
interests in such policy.	220
Section 2. That existing section 3904.13 of the Revised	221
Code is hereby repealed.	222
Section 3. Sections 1 and 2 of this act take effect July	223
1, 2020.	224