

SECOND REGULAR SESSION

# SENATE BILL NO. 636

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3355S.011

## AN ACT

To repeal section 376.383, RSMo, and to enact in lieu thereof one new section relating to the payment of health insurance claims.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 376.383, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 376.383, to read as follows:

376.383. 1. For purposes of this section and section 376.384, the following  
2 terms shall mean:

3 (1) "Claimant", any individual, corporation, association, partnership or  
4 other legal entity asserting a right to payment arising out of a contract or a  
5 contingency or loss covered under a health benefit plan as defined in section  
6 376.1350;

7 (2) "Clean claim", a claim that has no defect, impropriety, lack of  
8 any required substantiating documentation, or particular circumstance  
9 requiring special treatment that prevents timely payment;

10 (3) "Deny" or "denial", when the health carrier refuses to reimburse all  
11 or part of the claim;

12 [(3)] (4) "Health carrier", health carrier as defined in section 376.1350[,]  
13 and any self-insured health plan, to the extent allowed by federal law;  
14 except that health carrier shall not include a workers' compensation carrier  
15 providing benefits to an employee pursuant to chapter 287, RSMo. For the  
16 purposes of this section and section 376.384, third-party contractors are  
17 health carriers;

18 [(4)] (5) "Health care provider", health care provider as defined in section  
19 376.1350;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20            [(5)] (6) "Health care services", health care services as defined in section  
21 376.1350;

22            [(6)] (7) "Processing days", number of days the health carrier **or any of**  
23 **its agents, subsidiaries, contractors, subcontractors, or third-party**  
24 **contractors** has the claim in its possession. Processing days shall not include  
25 days in which the health carrier is waiting for a response to a request for  
26 additional information **from the claimant**;

27            [(7)] (8) "Request for additional information", [when the health carrier  
28 requests information from the claimant to determine if all or part of the claim  
29 will be reimbursed] **a health carrier's electronic request for additional**  
30 **information from the claimant specifying all of the documentation or**  
31 **information necessary to process all or part of the claim, or all or part**  
32 **of the claim on a multi-claim form, as a clean claim for payment**;

33            [(8) "Suspends the claim", giving notice to the claimant specifying the  
34 reason the claim is not yet paid, including but not limited to grounds as listed in  
35 the contract between the claimant and the health carrier; and]

36            (9) "Third-party contractor", a third party contracted with the health  
37 carrier to receive or process claims for reimbursement of health care services.

38            2. **Within one working day after receipt of an electronically filed**  
39 **claim by a health carrier or a third-party contractor, a health carrier**  
40 **shall send an electronic acknowledgment of the date of receipt.**

41            3. Within [ten working] **fifteen** days after receipt of a **filed** claim by a  
42 health carrier or a third-party contractor, a health carrier shall[:

43            (1) Send an acknowledgment of the date of receipt; or

44            (2)] **send an electronic notice of the status of the claim that [includes]**  
45 **notifies the claimant:**

46            (1) **Whether the claim is a clean claim as defined under this**  
47 **section; or**

48            (2) **The claim requires additional information from the claimant.**  
49 **If the claim is a clean claim, then the health carrier shall pay or deny**  
50 **the claim. If the claim requires additional information, the health**  
51 **carrier shall include in the notice a request for additional information. If**  
52 **a health carrier pays the claim, [subdivisions (1) and (2)] this subsection shall**  
53 **not apply.**

54            [3.] 4. Within fifteen days after receipt of additional information by a  
55 health carrier or a third-party contractor, a health carrier shall pay the claim or

56 any undisputed part of the claim in accordance with this section or send [a] **an**  
57 **electronic** notice of receipt and status of the claim:

58 (1) That denies all or part of the claim and specifies each reason for  
59 denial; or

60 (2) That makes a final request for additional information.

61 [4.] **5.** Within fifteen days after the day on which the health carrier or  
62 a third-party contractor receives the additional requested information in response  
63 to a final request for information, it shall pay the claim or any undisputed part  
64 of the claim or deny [or suspend] the claim.

65 [5.] **6.** If the health carrier has not paid the claimant on or before the  
66 forty-fifth **processing** day from the date of receipt of the claim, the health  
67 carrier shall pay the claimant one percent interest per month **and a penalty in**  
68 **an amount equal to one-fifth of the claim per day.** The interest **and**  
69 **penalty** shall be calculated based upon the unpaid balance of the claim **as of the**  
70 **forty-fifth processing day.** The interest **and penalty** paid pursuant to this  
71 subsection shall be included in any late reimbursement without the necessity for  
72 the person that filed the original claim to make an additional claim for that  
73 interest **and penalty.** A health carrier may combine interest payments and  
74 make payment once the aggregate amount reaches [five] **one hundred**  
75 **dollars. Any claim which has been properly denied before the forty-fifth**  
76 **processing day under this section and section 376.384 shall not be**  
77 **subject to interest or penalties. Such interest and penalties shall cease**  
78 **to accrue on the day after a petition is filed in a court of competent**  
79 **jurisdiction to recover payment of such claim. Upon a finding by a**  
80 **court of competent jurisdiction that the health carrier failed to pay a**  
81 **claim, interest, or penalty without good cause, the court shall enter**  
82 **judgment for reasonable attorney fees for services necessary for**  
83 **recovery. Upon a finding that a health care provider filed suit without**  
84 **reasonable grounds to recover a claim, the court shall award the health**  
85 **carrier reasonable attorney fees necessary to the defense.**

86 [6. If a health carrier fails to pay, deny or suspend the claim within forty  
87 processing days, and has received, on or after the fortieth day, notice from the  
88 health care provider that such claim has not been paid, denied or suspended, the  
89 health carrier shall, in addition to monthly interest due, pay to the claimant per  
90 day an amount of fifty percent of the claim but not to exceed twenty dollars for  
91 failure to pay all or part of a claim or interest due thereon or deny or suspend as

92 required by this section. Such penalty shall not accrue for more than thirty days  
93 unless the claimant provides a second written or electronic notice on or after the  
94 thirty days to the health carrier that the claim remains unpaid and that penalties  
95 are claimed to be due pursuant to this section. Penalties shall cease if the health  
96 carrier pays, denies or suspends the claim. Said penalty shall also cease to  
97 accrue on the day after a petition is filed in a court of competent jurisdiction to  
98 recover payment of said claim. Upon a finding by a court of competent  
99 jurisdiction that the health carrier failed to pay a claim, interest or penalty  
100 without reasonable cause, the court shall enter judgment for reasonable attorney  
101 fees for services necessary for recovery. Upon a finding that a provider filed suit  
102 without reasonable grounds to recover a claim, the court shall award the health  
103 carrier reasonable attorney fees necessary to the defense.]

104           7. The department of insurance, financial institutions and professional  
105 registration shall monitor [suspensions] **denials** and determine whether the  
106 health carrier acted reasonably.

107           8. If a health carrier or third-party contractor has reasonable grounds to  
108 believe that a fraudulent claim is being made, the health carrier or third-party  
109 contractor shall notify the department of insurance, financial institutions and  
110 professional registration of the fraudulent claim pursuant to sections 375.991 to  
111 375.994, RSMo.

112           9. Denial of a claim shall be communicated to the claimant and shall  
113 include the specific reason why the claim was denied. **Any claim for which the**  
114 **health carrier has not communicated a specific reason for the denial**  
115 **shall not be considered denied under this section or section 376.384.**

116           10. Requests for additional information shall specify [what] **all of the**  
117 **documentation and** additional information **that** is necessary to process **all of**  
118 the claim, **or all of the claims on a multi-claim form, as a clean claim** for  
119 payment. Information requested shall be reasonable and pertain **solely** to the  
120 health carrier's determination of liability. The health carrier shall acknowledge  
121 receipt of the requested additional information to the claimant within five  
122 working days or pay the claim.

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