

**96-2
BULLETIN**

TO: All Insurers Authorized to do Business in Kentucky

FROM: George Nichols III

Commissioner of Insurance

DATE: May 15, 1996

RE: Insurance Legislation Adopted by the 1996 Kentucky General Assembly (Regular Session)

THIS BULLETIN IS FOR INFORMATION ONLY. IT DOES NOT AMEND PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 1996 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 1996. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JULY 15, 1996

Senate Bill 161 - Workers' Compensation:

Section 14 of this bill clarifies that no insurance policy or rider can be issued or delivered for use in Kentucky unless it is filed with the Commissioner of Insurance at least thirty days before the date of issuance or delivery. The policy or rider may be issued or delivered for use before the expiration of the thirty day period if the Commissioner of Insurance approves the form in writing. No form may be issued or delivered for use if the Commissioner of Insurance notifies the company in writing that the policy or rider does not comply with the laws of Kentucky.

Contact: Property & Casualty Division (502) 564-6046

Senate Bill 203 - Premium Setoff in Insurer's Liquidation

This bill amends KRS 304.33-330 to clarify that a person may setoff premium due to or from an insurer pursuant to a reinsurance contract in any liquidation proceeding commenced after July 15, 1996.

Contact: Legal & Enforcement Division (502) 564-6032

Senate Bill 204 • Arbitration in Liquidation

This bill amends KRS 304.33-010 to clarify that nothing in Subtitle 33 shall be construed to subordinate or restrict the ability of insurers and reinsurers to submit their disputes to arbitration pursuant to an arbitration clause contained in a reinsurance agreement.

Contact: Legal & Enforcement Division (502) 564-6032

Senate Bill 205 - Arbitration Between Insurers

This bill amends KRS 417.050 to clarify that contractual arbitration provisions between two or more insurers or reinsurers are enforceable.

Contact: Legal & Enforcement Division (502) 564-6032

Senate Bill 232 - Consumer Product Warranties

This bill amends the KRS 304.5-070 definition of casualty insurance to create an exception for service contracts to repair, replace or maintain consumer products. Such service contracts will not be considered insurance if the maker of the service contract registers with the commissioner and provides evidence of either sufficient net worth to assure performance on the contract or of an insurance policy or performance bond with an authorized insurer to assure performance of the maker. Manufacturers' warranties are exempted from the requirements of this section.

Contact: Property and Casualty Division (502) 564-6046

Senate Bill 284 - Medicare Supplement Insurance:

This bill makes technical changes in KRS 304.14-500 through 304.14-510 to bring Kentucky's statutes regulating Medicare Supplement insurance in compliance with federal law. This allows Kentucky to retain regulatory authority over Medicare Supplement insurance.

Contact: Legal & Enforcement Division (502) 564-6032

Senate Bill 285 - Health Maintenance Organizations:

Section 1 of this bill amends KRS 304.38-200 to add several subtitles of the Insurance Code to the provisions which govern HMOs. Since the Department already applied these subtitles to HMOs by analogy, no major change in enforcement is anticipated. The new portions of the Insurance Code which now specifically apply to HMOs are:

Subtitle 3 - Authorization of Insurers and General Requirements

Subtitle 7 - Investments

Subtitle 37 - Insurance Holding Company Systems

Section 2 of the bill creates a new section of KRS 304.38 to require HMOs to furnish to the Commissioner a deposit of cash or approved securities in an amount not less than five hundred thousand dollars (\$500,000).

Contact: Financial Standards & Examinations Division (502) 564-6082

Senate Bill 288 - Single Premium Life Insurance Policies

Section 1 of this bill amends KRS 304.6-140 to clarify that the minimum standard for valuation of reserves of single premium life insurance policies is five and one-half percent (5.5%) interest.

Sections 2, 3, and 4 of this bill create a new section of KRS 304.6 and amend current sections to require life insurers doing business in Kentucky to submit the opinion of a qualified actuary as to the adequacy of its reserves to the Commissioner. This opinion is to be accompanied by a supporting memorandum which is to be kept confidential by the Department.

Section 5 of the bill creates a new section of KRS 304.24 to require insurers domiciled in Kentucky to file a report with the commissioner disclosing any material acquisitions or dispositions of assets or any material nonrenewals, cancellations or revisions of ceded reinsurance agreements. No report is necessary if the transaction has been submitted to the Commissioner for review, approval or information purposes under some other provision of the Insurance Code. The report is due within fifteen (15) days of the end of the calendar month in which the transaction takes place. A copy of the report with all attachments is to be filed with the Insurance department in the insurer's state of domicile and with the National Association of Insurance Commissioners. The reports are required to be held confidential. The section also defines what transactions are material and what information is required in the report.

Contact: Financial Standards & Examinations Division (502) 564-6082

Senate Bill 289 - Holding Companies

Section 1 of this bill amends KRS 304.24-410 to eliminate conflicts between that section and Subtitle 37. These changes are related to acquisition of a controlling interest of a domestic insurer. Details of any transaction which would result in a change of control must be filed with and approved by the commissioner.

Section 2 of the bill amends KRS 304.39-290 to raise the number of directors of the Kentucky Insurance Arbitration Association from five to ten. It also allows a director to designate an unlimited number of alternates who may serve for purposes of claims arbitration.

Section 3 of the bill eliminates the presumption created by KRS 304.37-030 (4)(a) that an insurer's surplus is reasonable if it is at least 200% of the minimum required by the Insurance Code.

Section 4 of the bill amends KRS 304.37-020 (2) (c) (6) to require insurers subject to registration under the Holding Company System Act to include information about all reinsurance agreements in force between an insurer and its affiliates.

Section 5 of the bill amends KRS 304.99-151 to include a penalty for failure to file the information required by KRS 304.24-410 with the commissioner.

Contact: Financial Standards & Examinations Division (502) 564-6082

Senate Bill 290 - Priority in Liquidation

This bill amends KRS 304.33-430, the section which determines order of distribution in the liquidation of an insurer to allow policyholders' claims to take priority over a list of other types of claims, including, federal tax claims, reinsurers' claims, punitive damage awards or employees wage claims. The bill also specifies that no claimant shall be permitted to circumvent the priority classes through the use of equitable remedies. These changes will apply to the presently pending liquidation actions.

Contact: Legal and Enforcement Division (502) 564-6032

Senate Bill 343 - Health Care Reform:

This bill makes various amendments to the 1994 Health Care Reform Act. The more notable amendments are as follows:

Section 1

- Kentucky Kare is included in the definition of accountable health plan.
 - Universities and local government employees are no longer mandatory members of the Health Purchasing Alliance, but rather voluntary members.
 - The definition of a small group now refers to groups with 50 or less employees or individuals as opposed to 100 or less.

Sections 2 - 5

- The duties of the Health Policy Board with respect to the Health Purchasing Alliance are now the responsibility of the Department of Insurance.

Section 7

- Provider-sponsored integrated health delivery networks are now included in the definition of insurer and may offer health benefit plans.
- Provider-sponsored integrated health delivery networks must obtain a certificate of filing from the Department and must demonstrate financial solvency.

Section 8

- The pre-existing condition exclusion is expanded from 6 months to 12 months.
 - An insured cannot be required to replace an individual policy with a group policy unless the group policy is provided by the insured's employer.

Section 9

- MCR applies to employers with 50 or less employees as well as individuals and Alliance participants.

- The ratio of the highest rate factor to the lowest rate factor can not exceed five to one.
- Associations in existence on or before January 1, 1996, currently offering health care benefit plans, and meeting the requirements of KRS 304.18-020 are exempt from MCR.
- A rate restriction from a 30% variance above or below the index community rate to no deviation from the index community rate is to be phased in from July 15, 1996 through July 1, 2000.

Section 11

- The Department, with the advice of the Kentucky Health Insurance Advisory Council, must define five standard plans.
- The Department, with the advice of the Advisory Council, may approve additional plans as standard plans.

Section 12

- The Kentucky Health Insurance Advisory Council is created consisting of 7 members: the Insurance Commissioner as chair, 2 representatives of insurers, 2 practicing providers, and 2 representatives of consumers.
- The Advisory Council is responsible for reviewing and advising the Commissioner on issues such as the design of standard health benefit plans, the rate filing process, the definition of high-risk condition, and the promulgation or administrative regulations concerning KRS 304.17A, as well as other issues the Commissioner may request.

Section 13

- Eligible associations are exempt from MCR.
 - Existing associations not meeting the statutory definition may apply to the Department for approval as an eligible association before September.

Section 15

- All rates filed with the Commissioner between July 15, 1995 and July 15, 1996 must be reviewed by the Commissioner before September 13, 1996, to determine if the rates are excessive and if the benefits are no longer reasonable in relation to the premiums or fees charged.
- The Commissioner must direct an insurer to issue refunds if the rates are determined to be excessive or unreasonable in relation to the benefits.

Section 16

- The Commissioner must hold a hearing on a rate filing if the requested rate increase exceeds the consumer price index plus 3%.

- The commissioner must consider the following criteria in reviewing rates:

premium relation to benefits

fees paid to providers

previous premium

effect on policyholders

excessive, inadequate, or unfairly discriminatory

other relevant factors

- The Attorney General must be notified of the rate hearing and the Attorney General shall participate in the hearing.

Sections 18 & 19

- These sections set forth the specific requirements for a provider-sponsored integrated health delivery networks to obtain a certificate of filing and demonstrate financial responsibility.

Section 20

- This section amends KRS 304.18-110 to provide for 18 months of continuation coverage after the date of group membership termination as opposed to 9 months.

Section 21

- The Department is responsible for promulgating administrative regulations and supervising the study on 24-hour health coverage.

Repealers

- KRS 216.2903 creating the Kentucky Health Policy Board is repealed.

Senate Bill 400 - Medical Malpractice Insurance For Charitable Health Care Providers

This bill creates a new section of KRS 304.40 which requires insurers offering medical professional liability insurance in Kentucky to make such insurance available to charitable health care providers and persons volunteering to provide medical services to charitable health care providers. Premiums for this coverage will be paid by the Commonwealth of Kentucky from the General Fund upon application by the

charitable health care provider. The Department is to promulgate administrative regulations as to the registration of charitable health care providers and shall annually review the premiums paid by the Commonwealth under this section for reasonableness.

Contact: Property and Casualty Division (502) 564-6046

House Bill 186 - Maternity Benefits:

This bill requires health benefit plans, as defined in KRS 304.17A-100,

issued or renewed after July 15, 1996, that provide maternity

coverage to provide in-patient care for a mother and newborn for a minimum of 48 hours following a vaginal delivery and 96 hours following a Cesarean section.

This requirement does not apply if:

1. The health benefit plan authorizes an initial postpartum home visit which includes the collection of an adequate sample for hereditary and metabolic newborn screening; and
2. The attending physician, with the consent of the mother, authorizes a shorter stay upon a determination that the mother and newborn meet certain medical stability requirements.

Contact: Life & Health Division (502) 564-6088

House Bill 248 - Credit Health Insurance:

This bill authorizes an insurer to use higher rates for credit health insurance issued to credit union borrowers of specific credit unions if the coverage is not required as a condition of the loan and if the rates have been filed with the Commissioner and have not been disapproved within 30 days of the filing.

Contact: Property & Casualty Division (502) 564-6046

House Bill 439 - Suspension of Driver's License For No Insurance

This bill creates a new system designed to catch persons who purchase automobile liability insurance only for the purpose of registering their cars. Once the car is registered, the insurance policy is cancelled. Insurance companies and agents are required to notify the Department of Transportation when a policy or binder is cancelled. Drivers are then required to provide proof of substitute insurance or face suspension of their driver's license.

Contact: Legal and Enforcement Division (502) 564-6032

House Bill 504 - Treatment of Breast Cancer:

This bill requires health insurance policies which provide coverage for treatment of breast cancer by chemotherapy to provide coverage at the same coinsurance or copayment for high-dose chemotherapy

with autologous bone marrow transplantation or stem cell transplantation provided that the institution at which the treatments are performed complies with certain guidelines.

THIS IS EMERGENCY LEGISLATION WHICH BECAME EFFECTIVE ON MARCH 28, 1996.

Contact: Life & Health Division (502) 564-6088

House Bill 699 - Pre-need Funeral Services:

This bill amends KRS 367.934 to exempt pre-need and burial insurance policies regulated by the Department of insurance from the provisions of KRS 367.932 through 367.974 regarding pre-need funeral services.

Contact: Legal & Enforcement Division (502) 564-6032

House Bill 782 - Chiropractic and Vision Services:

Section 1: This bill requires health benefit plans which include chiropractic benefits to provide coverage for any duly licensed chiropractor which a covered person has chosen to render his chiropractic services regardless of whether the chiropractor is specifically included in the provider network of the health benefit plan if the chiropractor is willing to meet the terms and conditions for participation in the health benefit plan. Further, health benefit plans are required to permit any licensed chiropractor who is willing to meet the terms and conditions of participation in the plan to participate in the health benefit plan as a participating primary chiropractic provider.

Section 2: Covered persons who are eligible for chiropractic benefits are permitted to directly contact their participating chiropractic provider without referral from any other provider. Health benefit plans utilizing a gatekeeper system must designate the primary chiropractic provider as the gatekeeper for chiropractic services. The primary chiropractic provider shall provide basic care and coordinate diagnostic testing, indicated treatment, and specialty referrals with respect to the rendering of chiropractic services. This bill does not restrict a covered person from utilizing his primary care physician for covered benefits other than chiropractic services.

This bill also affirmatively prohibits discrimination between individual providers or classes of providers in the amount of financial reimbursement for the same or essentially similar services and promotion of an individual provider or class of providers.

Finally, section 2 requires health benefit plans to assure that an adequate number of primary chiropractic plans are included as participating primary chiropractic providers.

Section 3 requires HMO contracts providing coverage for optometric services to provide coverage for such services whether they are rendered by an optometrist, physician, or ophthalmic dispenser.