

1 Public Protection Cabinet  
2 Department of Insurance  
3 Division of Health, Life Insurance and Managed Care  
4 (Amendment)

5 806 KAR 17:470. Data reporting to an employer-organized association health benefit plan.

6 RELATES TO: KRS 304.2-110(1), 304.17A-005, 304.17A-700(7), 304.17A-846(1), 45  
7 C.F.R. 160, 45 C.F.R. 164

8 STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-846

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the  
10 Commissioner [~~executive director~~] to promulgate reasonable administrative regulations necessary  
11 for, or as an aid to, the effectuation of any provision of the Kentucky Insurance Code as defined  
12 in KRS 304.1-010. KRS 304.17A-846 requires the department [~~office~~] to promulgate an  
13 administrative regulation to implement its provisions and define the extent that health benefit plan  
14 information shall be provided to an employer-organized association. This administrative  
15 regulation establishes requirements for the provision of health benefit plan information to an  
16 employer-organized association by an insurer offering a health benefit plan.

17 Section 1. Definitions. (1) "Aggregate claims experience" means the total dollar amount  
18 paid to health care providers of medical and pharmacy services for persons covered under an  
19 employer-organized association health benefit plan.

20 (2) "Complete request" means a written request for employer-organized association health  
21 benefit plan information, including:

1 (a) A certification by a designated representative of the employer-organized association  
2 stating the:

3 1. Employer-organized association health benefit plan has adopted safeguards and  
4 standards for the treatment of health information pursuant to 45 C.F.R. 164.504(f); and

5 2. Information requested is the minimum amount necessary to accomplish the intended  
6 purpose of the use or disclosure pursuant to 45 C.F.R. 164.502(b) and 164.514(d); and

7 (b) Specific and sufficient details relating to the requested health benefit plan information.

8 (3) "Electronically" is defined by ~~in~~ KRS 304.17A-700(7).

9 (4) "Employer-organized association" is defined by KRS 304.17A-005(12).

10 (5) "Employer-organized association health benefit plan" means a health benefit plan  
11 issued to an employer-organized association or trust established by one (1) or more employer-  
12 organized associations.

13 (6) "Commissioner" is defined by 304.1-050(1). [~~"Executive director" means the Executive~~  
14 ~~Director of the Office of Insurance.~~]

15 (7) "Health benefit plan" is defined by ~~in~~ KRS 304.17A-005(22).

16 (8) "HIPAA" means Health Insurance Portability and Accountability Act of 1996, Pub.L.  
17 104-191.

18 (9) "Department" is defined by KRS 304.1-050(2) [~~"Office" means the Office of~~  
19 ~~Insurance.~~]

20 Section 2. Requirements for Provision of Information. (1) Within five (5) business days of  
21 receipt of a written request for information relating to an employer-organized association health  
22 benefit plan, an insurer shall in writing:

23 (a) Acknowledge receipt of the request; and

1 (b) If the request fails to be a complete request, identify the items necessary to constitute a  
2 complete request in the acknowledgment of receipt letter.

3 (2) Pursuant to KRS 304.17A-846(1), an insurer shall provide an employer-organized  
4 association with its health benefit plan information, as requested:

5 (a) Including:

6 1. Total aggregate claims experience;

7 2. Total premiums paid by the employer-organized association;

8 3. Total number of persons covered under the employer-organized association health  
9 benefit plan, by coverage tier, as follows:

10 a. Family;

11 b. Individual;

12 c. Individual and spouse;

13 d. Individual and domestic partner; and

14 e. Parent plus; and

15 4. Information required under KRS 304.17A-846(1)(d); and

16 (b) Within thirty (30) calendar days of receipt of a complete request.

17 (3) An insurer may:

18 (a) Except if an employer-organized association specifies the method for the delivery of its  
19 health benefit plan information, provide the requested information in one (1) of the following  
20 formats:

21 1. Electronically, pursuant to the requirements for electronic transmission of information  
22 as established in 45 C.F.R. 160 and 164; or

23 2. Hard copy; and

1 (b) Request an extension of the timeframe for providing an employer-organized association  
2 with its health benefit plan information in whole or in part, if the insurer:

3 1. Provides evidence to the employer-organized association that a disruption in electricity  
4 and communication connections beyond its control has occurred; or

5 2. Establishes that an unusual circumstance exists that precludes the provision of health  
6 benefit plan information electronically or in hard copy format; and

7 3. Deny a complete request if:

8 a. A determination is made by the United States Department of Health and Human Services  
9 Office for Civil Rights that provision of health benefit plan information as requested by the  
10 employer-organized association is prohibited under HIPAA; and

11 b. A copy of the determination, as established under clause a of this subparagraph, is pro-  
12 vided to the employer-organized association which submits a complete request.

13 Section 3. Preemption. This administrative regulation shall not:

14 (1) Preempt or supersede an existing Kentucky law relating to a medical record, health, or  
15 insurance information privacy; or

16 (2) Infringe upon the jurisdiction of the United States Department of Health and Human  
17 Services Office for Civil Rights in its:

18 (a) Enforcement of 45 C.F.R. 160 and 164; and

19 (b) Responding to a complaint relating to privacy of health information.