

Act No. 79  
Public Acts of 1998  
Approved by the Governor  
May 4, 1998  
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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

**Introduced by Senators Hart, Conroy, Gougeon, North, Bullard, Vaughn, V. Smith, Peters, A. Smith, DeBeaussaert, Young, Stallings, Byrum and Koivisto**

# **ENROLLED SENATE BILL No. 401**

AN ACT to amend 1984 PA 218, entitled "An act to provide for the regulation of third party administrators; to provide for the licensure of administrative service managers; to provide for certain powers and duties for certain state agencies and officers; to provide for the confidentiality of certain personal data; and to prescribe penalties for a violation of this act," by amending sections 40 and 44 (MCL 550.940 and 550.944).

*The People of the State of Michigan enact:*

Sec. 40. A TPA or manager, in processing claims, shall not do any of the following:

- (a) Misrepresent pertinent facts relating to coverage.
- (b) Fail to make a good faith effort to acknowledge promptly or to act reasonably and promptly upon communications with respect to a claim for benefits.
- (c) Fail to adopt and implement reasonable standards for the prompt investigation of a claim for benefits.
- (d) Refuse to process claims without conducting a reasonable investigation based upon the available information.
- (e) Fail to communicate affirmation or denial of coverage of a claim for benefits within a reasonable time after a claim has been received.
- (f) Fail to make a good faith effort to promptly, fairly, and equitably process a claim for benefits.
- (g) Fail to promptly provide a reasonable explanation of the basis for denial or partial denial of a claim for benefits.
- (h) Refuse to process claims because of race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.
- (i) Knowingly compel individuals covered by the plan to institute litigation to recover amounts due under a benefit plan by offering substantially less than the amounts due unless the amounts due are reasonably in dispute.
- (j) For the purpose of coercing an individual covered by the plan to accept a settlement or compromise of a claim, inform the individual of a policy of the TPA of appealing judicial, arbitration, or administrative hearing decisions which are in favor of individuals covered by the plan.
- (k) Delay the investigation or processing of a claim by requiring an individual covered by the plan, or the provider of services to the individual covered by the plan, to submit a preliminary claim and then requiring subsequent submission of a formal claim, seeking solely the duplication of a verification. This subdivision does not apply to the predetermination or precertification of benefits.

Sec. 44. (1) A TPA shall not refuse to enter into a service contract or provide administrative services other than processing claims because of race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(2) A TPA or manager shall not misrepresent the financial condition of a TPA or of any person engaged in the business of insurance, or misrepresent the financial aspects of the services offered by the TPA or make a statement which is maliciously false, maliciously critical of, or maliciously derogatory to the financial condition of another TPA or of a person engaged in the business of insurance.

(3) A TPA or manager shall not misrepresent the nature of the services provided by the TPA, including but not limited to, the existence or identity of any carrier or other TPA involved with the plan; the extent of risk assumed by any particular named carrier, if any; or the regulatory status of the carrier or TPA.

(4) A TPA or manager shall not make, or participate in the making of, any fraudulent statement on a claims form for the purpose of obtaining money or other benefits.

(5) A TPA shall process claims for benefits on a timely basis.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Mary Ann Bell*

Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.