

SUBSTITUTE FOR
SENATE BILL NO. 447

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 3471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3471. (1) On request of a large employer group, an
2 insurer shall provide the large employer group with claims
3 utilization and cost information as provided in subsection (3) on
4 presentation of a signed nondisclosure agreement to the insurer. In
5 signing the nondisclosure agreement described in this subsection,
6 the large employer group shall agree to keep confidential all
7 information received under this section **other than the information**
8 **required to be disclosed under subsection (6).**
9 (2) A large employer group that is part of a combined large

1 employer group must be provided with claims utilization and cost
2 information as provided in subsection (3) (a) that is aggregated for
3 all the employees enrolled in the combined large employer group,
4 and the information must not be separated out for any of those
5 employers included in the combined large employer group.

6 (3) An insurer in this state shall compile, and shall make
7 available to a large employer group in an electronic, spreadsheet-
8 compatible format, complete and accurate claims utilization and
9 cost information for the medical benefit plan in the aggregate and
10 for each large employer group entitled to that information under
11 subsection (1) or (2) and each subgroup of employees of the large
12 employer group if the subgroup has 100 or more employees covered by
13 the medical benefit plan, as follows:

14 (a) Incurred and paid claims data for the employee group
15 covered by the medical benefit plan, including at least all of the
16 following:

17 (i) For a plan that provides medical benefits, information
18 concerning hospital and medical claims under the plan, presented in
19 a manner that clearly shows all of the following:

20 (A) Number and total expenditures for inpatient claims for
21 each month.

22 (B) Number and total expenditures for outpatient claims for
23 each month.

24 (C) Number and total expenditures for all other medical claims
25 for equipment, devices, and services, including services rendered
26 in the private office of a physician or other health professional,
27 for each month.

28 (D) The tax identification number or national provider
29 identifier of each provider rendering service or care.

(ii) For a plan that provides prescription drug benefits, information concerning prescription drug claims under the plan, presented in a manner that clearly shows all of the following:

(A) Amount paid for prescription drug claims for each month.

(B) Amount paid for brand prescription drug claims for each month.

(C) Amount paid for generic prescription drug claims for each month.

(D) Amount paid for specialty prescription drug claims for each month.

(E) The 50 prescription drugs for which claims were most frequently paid.

(F) The 50 prescription drugs for which expenditures were the largest.

(iii) For a plan that provides medical or prescription drug benefits, in addition to the information required under subparagraphs (i) and (ii), as applicable, information concerning covered individuals with total medical or prescription drug claims, or both, exceeding \$25,000.00 for any 12-month period for which claims utilization and cost information are provided, presented in a manner that clearly shows all of the following separately for each covered individual:

(A) Total medical expenditures for the individual.

(B) Total prescription drug expenditures for the individual.

(C) Whether the covered individual is currently covered by the medical benefit plan.

(D) The covered individual's diagnoses.

(iv) Fees and administrative expenses for the most recent experience year, reported separately for medical and prescription

1 drug plans, and presented in a manner that clearly shows at least
2 all of the following:

3 (A) The dollar amounts paid for specific and aggregate stop-
4 loss insurance.

5 (B) The dollar amount of administrative expenses incurred or
6 paid, reported separately for medical and pharmacy.

7 (C) The total dollar amount of retentions and other expenses.

8 (D) The dollar amount for all service fees paid.

9 (v) The dollar amount of any fees or commissions paid to
10 agents, consultants, third party administrators, or brokers by the
11 medical benefit plan or by any large employer group or carrier
12 participating in or providing services to the medical benefit plan,
13 reported separately for medical, prescription drug, and stop-loss.

14 (vi) For medical and prescription drug plans, a benefit summary
15 for the current year's plan and, if benefits have changed during
16 any of the 2 most recent 12-month periods for which claims
17 utilization and cost information are provided, a brief benefit
18 summary for each of those periods for which the benefits were
19 different.

20 (b) A census of all covered employees, including all of the
21 following:

22 (i) Year of birth of each employee.

23 (ii) Gender of each employee.

24 (iii) Zip code in which each employee resides.

25 (iv) The contract coverage type for each employee, such as
26 single, 2-person, or family, and number of individuals covered by
27 contract.

28 (v) For each month, the total number of covered employees and
29 the number of covered employees in each contract coverage type.

1 (vi) For each month, the total number of covered individuals
2 and the number of covered individuals in each contract coverage
3 type.

4 (vii) For a plan that provides prescription drug benefits,
5 information concerning enrollment and prescription drugs claims
6 under the plan, presented in a manner that clearly shows all of the
7 following:

8 (A) For each month, the total number of covered employees and
9 the number of covered employees in each contract coverage type.

10 (B) For each month, the total number of covered individuals
11 and the number of covered individuals in each contract coverage
12 type.

13 (C) Other information as required by the director.

14 (4) Except as otherwise provided in subsection (3) and subject
15 to subsection (5), claims utilization and cost information required
16 to be compiled under this section must be compiled at the request
17 of a large employer group. The large employer group may not request
18 claims utilization and cost information more than once per calendar
19 year. Claims utilization and cost information compiled on the
20 request of a large employer group must be compiled within 30 days
21 after the request.

22 (5) Claims utilization and cost information compiled under
23 this section must cover a relevant period. For purposes of this
24 subsection, "relevant period" means the 24-month period ending not
25 more than 60 days before the compilation of the information for the
26 medical benefit plan under consideration. However, if the medical
27 benefit plan has been in effect for less than 24 months, the
28 relevant period is that shorter period.

29 (6) A large employer group or combined large employer group

1 shall disclose the claims utilization and cost information required
2 to be provided under subsections (2) and (3) to any carrier or
3 administrator it solicits to provide benefits or administrative
4 services for its medical benefit plan. A large employer group or
5 combined large employer group shall make the claims utilization and
6 cost information required under this section available within 30
7 days after the request. In addition, a large employer group or
8 combined large employer group may disclose the claims utilization
9 and costs information required to be provided under subsections (2)
10 and (3) to any carrier or administrator who requests the
11 opportunity to submit a proposal to provide benefits or
12 administrative services for the medical benefit plan during the
13 request for bids or proposals.

14 (7) On request of a large employer group or combined large
15 employer group, an insurer shall provide the tax identification
16 number or national provider identifier of each provider rendering
17 service or care on presentation of a signed nondisclosure agreement
18 to the insurer.

19 (8) The claims utilization and cost information required to be
20 produced under subsection (3) must include only health information
21 as permitted under the health insurance portability and
22 accountability act of 1996, Public Law 104-191, or regulations
23 promulgated under that act, 45 CFR parts 160 and 164, and must not
24 include any protected health information as defined in the health
25 insurance portability and accountability act of 1996, Public Law
26 104-191, or regulations promulgated under that act, 45 CFR parts
27 160 and 164.

28 (9) An insurer that delivers, issues for delivery, or renews
29 in this state a health insurance policy that provides information

1 in response to a request from a large employer group under this
2 section is immune from civil liability for complying with the
3 request and for the acts or omissions of any person's subsequent
4 use of the data or information.

5 (10) As used in this section:

6 (a) "Carrier" means any of the following:

7 (i) An insurer that offers a medical benefit plan.

8 (ii) An employee welfare benefit plan as that term is defined
9 in section 7001.

10 (iii) A person operating a system of health care delivery and
11 financing under section 3573.

12 (iv) A voluntary employees' beneficiary association described
13 in section 501(c)(9) of the internal revenue code of 1986, 26 USC
14 501.

15 (b) "Combined large employer group" means either of the
16 following:

17 (i) Two or more employers that are in an arrangement and
18 together have 100 or more employees in medical benefit plans or
19 have a signed letter of intent to enter together 100 or more
20 employees into medical benefit plans.

21 (ii) A medical benefit plan in which the employees of 2 or more
22 employers are enrolled.

23 (c) "Covered individual" means an employee covered under a
24 medical benefit plan.

25 (d) "Full-time employees" means the term as used in section
26 3701.

27 (e) "Large employer group" means an employer that is issued a
28 policy by a carrier under this chapter with enrollment of 100 or
29 more full-time employees.

1 (f) "Medical benefit plan" means a plan, established and
2 maintained by a large employer group, that provides for the payment
3 of medical benefits, including, but not limited to, hospital and
4 physician services, prescription drugs, and related benefits, to
5 its employees. Medical benefit plan does not include either of the
6 following:

7 (i) A medical benefit plan as defined in section 3 of the
8 public employees health benefit act, 2007 PA 106, MCL 124.73, that
9 is required to compile and make available claims utilization and
10 cost information under section 15 of the public employees health
11 benefit act, 2007 PA 106, MCL 124.85.

12 (ii) A plan that covers only a specified accident, accident
13 only, credit, dental, disability income, long-term care, or vision
14 benefits.

15 (g) "National provider identifier" means that term as
16 described in 45 CFR part 162.

17 (h) "Provider" means provider of services as that term is
18 defined in 42 USC 1395x.

19 (i) "Specialty prescription drug" means a prescription drug
20 used to treat a rare, complex, or chronic medical condition that
21 meets any of the following requirements:

22 (i) Requires special administration including, but not limited
23 to, inhalation or infusion.

24 (ii) Requires special delivery or special storage.

25 (iii) Requires special oversight, intensive monitoring, or care
26 coordination with a person licensed under article 15 of the public
27 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

28 Enacting section 1. This amendatory act takes effect 90 days
29 after the date it is enacted into law.