THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT (EXCERPT)
Act 350 of 1980

550.1211a Definitions; prohibited acts by corporation; processing claims for benefits on timely basis; claim form; notice to covered individuals; notice to corporation of complaint and proceedings contemplated; hearing; findings; order; violation of order; penalty; action and award of actual monetary damages; review; stay of enforcement.

Sec. 211a. (1) As used in this section:

(a) "Noninsured benefit plan" means a health benefit plan without coverage by a health care corporation, health maintenance organization, or insurer or the portion of a health benefit plan without coverage by a health care corporation, health maintenance organization, or insurer that has a specific or aggregate excess loss coverage.

(b) "Process a claim" means the services performed in connection with a claim for benefits including the disbursement of benefit amounts.

(2) A health care corporation providing services under section 211 shall not do any of the following:

(a) Misrepresent pertinent facts relating to coverage.

(b) Fail 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 attempt in good faith to promptly, fairly, and equitably process a claim for benefits.

(g) Knowingly compel covered individuals to institute litigation to recover amounts due under a benefit plan or certificate by offering substantially less than the amounts due.

(h) For the purpose of coercing a covered individual to accept a settlement or compromise in a claim, inform the covered individual of a corporation policy of appealing administrative hearing decisions that are in favor of covered individuals.

(i) Delay the investigation or processing of a claim by requiring a covered individual, or the provider of services to the covered individual, to submit a preliminary claim and then requiring subsequent submission of a formal claim, seeking solely the duplication of a verification.

(j) Fail to promptly provide a reasonable explanation of the basis for denial or partial denial of a claim for benefits.

(k) Fail to promptly process a claim where liability has become reasonably clear under 1 portion of a benefit plan or certificate in order to influence a settlement under another portion of the benefit plan or certificate.

(*l*) Refuse to enter into a service contract, or refuse to provide services under a service contract because of race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(3) A corporation providing services under section 211 in connection with a noninsured benefit plan shall not, in order to induce a person to contract or to continue to contract with the corporation for the provision of services under a service contract or certificate offered by the corporation; to induce a person to lapse, forfeit, or surrender a certificate or service contract issued by the corporation; or to induce a person to secure or terminate coverage with an insurer, health care corporation, health maintenance organization, or other person, directly or indirectly, do any of the following:

(a) Issue or deliver to the person money or any other valuable consideration.

(b) Offer to make or make an agreement relating to a service contract or certificate other than as plainly expressed in the service contract or certificate.

(c) Offer to give or pay, or give or pay, directly or indirectly, a rebate or adjustment of the rate payable on the service contract or certificate, or an advantage in the services thereunder, except as reflected in the rate and expressly provided in the service contract or certificate. Readjustment of the rate for services provided under the service contract or certificate may be made at the end of a contract or certificate year or contract or certificate period and may be made retroactive.

(d) Make, issue, or circulate, or cause to be made, issued, or circulated, an estimate, illustration, circular, or statement misrepresenting the terms of a service contract or certificate, the advantages provided thereunder, or the true nature thereof.

(e) Make a misrepresentation or incomplete comparison, whether oral or written, between service contracts or certificates of the corporation or between service contracts or certificates of the corporation and an insurer,

hospital service corporation, health maintenance organization, or other person.

(4) A corporation providing services under section 211 in connection with a noninsured benefit plan shall process claims for benefits on a timely basis. If not paid on a timely basis, benefits payable to a covered individual shall bear simple interest from a date 60 days after a satisfactory claim form was received by the corporation, at a rate of 12% interest per annum. The interest shall be paid by the noninsured benefit plan in addition to, and at the time of payment of, the claim.

(5) A corporation providing services under section 211 in connection with a noninsured benefit plan shall specify in writing the materials that constitute a satisfactory claim form not later than 30 days after receipt of a claim, unless the claim is settled within 30 days. If a claim form is not supplied as to the entire claim, the amount supported by the claim form shall be considered to be paid on a timely basis if paid within 60 days after receipt of the claim form by the corporation.

(6) A corporation providing services under section 211 in connection with a noninsured benefit plan shall provide in its service contract a provision that the person contracting for the services in connection with a noninsured benefit plan shall notify each covered individual as to what services are being provided; the fact that individuals are not insured or are not covered by a certificate from the corporation, or are only partially insured or are only partially covered by a certificate from the corporation, as the case may be; which party is liable for payment of benefits; and of future changes in benefits.

(7) If the commissioner has probable cause to believe that a corporation is violating, or has violated subsection (2), indicating a persistent tendency to engage in conduct prohibited by that subsection, or has probable cause to believe that a corporation is violating, or has violated any other subsection of this section, he or she shall give written notice to the corporation, pursuant to the administrative procedures act, setting forth the general nature of the complaint against the corporation and the proceedings contemplated under this section. Before the issuance of a notice of hearing, the staff of the insurance bureau responsible for the matters that would be at issue in the hearing shall give the corporation an opportunity to confer and discuss the possible complaint and proceedings in person with the commissioner or a representative of the commissioner, and the matter may be disposed of summarily upon agreement of the parties. This subsection shall not be construed to diminish the right of a person to bring an action for damages under this section.

(8) A hearing held pursuant to subsection (7) shall be held pursuant to the administrative procedures act. If, after the hearing, the commissioner determines that the corporation is violating, or has violated subsection (2), indicating a persistent tendency to engage in conduct prohibited by that subsection, or has violated or is violating any other subsection of this section, the commissioner shall reduce his or her findings and decision to writing, and shall issue and cause to be served upon the corporation a copy of the findings and an order requiring the corporation to cease and desist from engaging in the prohibited activity. In addition to a cease and desist order, the commissioner may order any of the following:

(a) Payment of a monetary penalty of not more than $500.00 for each violation but not to exceed an aggregate penalty of $5,000.00, unless the corporation knew or reasonably should have known it was in violation of this section, in which case the penalty shall not be more than $2,500.00 for each violation and shall not exceed an aggregate penalty of $25,000.00 for all violations committed in a 6-month period.

(b) Suspension or revocation of the corporation's license or certificate of authority if the corporation knowingly and persistently violated this section.

(c) Refund of any overcharges.

(9) A corporation that violates a cease and desist order of the commissioner issued under subsection (8), after notice and an opportunity for a hearing, and upon order of the commissioner, may be subject to a civil fine of not more than $10,000.00 for each violation.

(10) In addition to other remedies provided by law, an aggrieved covered individual may bring an action for actual monetary damages sustained as a result of a violation of this section. If successful on the merits, the covered individual shall be awarded actual monetary damages or $200.00, whichever is greater. If the corporation shows by a preponderance of the evidence that a violation of this section resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error, the amount of recovery shall be limited to actual monetary damages.

(11) The filing of a petition for review does not stay enforcement of action pursuant to this section, but the commissioner may grant, or the appropriate court may order, a stay upon appropriate terms.

(12) The commissioner may at any time, by order, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, an order issued by him or her under this section, when in his or her opinion conditions of fact or of law have so changed as to require that action or if the public interest shall so require.

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Popular name: Blue Cross-Blue Shield
Popular name: Act 350