

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 169
PROPOSED COMMITTEE SUBSTITUTE H169-CSBC-26 [v.2]
05/11/2021 01:28:59 PM

Short Title: State Health Plan Data Transparency.-AB

(Public)

Sponsors:

Referred to:

March 1, 2021

A BILL TO BE ENTITLED
AN ACT ALLOWING THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS
AND STATE EMPLOYEES TO ACCESS AND UTILIZE ITS OWN CLAIMS PAYMENT
DATA WHILE CONTINUING TO PROTECT THE CONFIDENTIALITY OF THE
INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.1(2b) reads as rewritten:

"(2b) Claim Payment Data. – Data fields within a Claims Data Feed that reflect the provider and the amount the provider billed for services provided to a Plan member, the allowed amount applied to the claim by the Claims Processor, ~~and the amount paid by the Plan on the claim, claim, and the rate negotiated with, or agreed to by, the provider. The term "Claim Payment Data" includes any document, material, or other work, whether tangible or electronic, that is derived from, is based on, or reflects any of the foregoing data fields or information contained therein.~~ If the Claims Processor designates Claim Payment Data as a trade secret, the Claim Payment Data shall be treated as a trade secret as defined in G.S. 66-152(3)."

SECTION 2. G.S. 135-48.32 reads as rewritten:

"§ 135-48.32. Contracts to provide benefits.

(a) The Plan benefits shall be provided under contracts between the Plan and the claims processors selected by the Plan. The contracts necessarily will conform to applicable State law.

(b) Unless otherwise directed by the Plan, each Claims Processor shall provide the Plan with a Claims Data Feed, which includes all Claim Payment Data, at a frequency agreed to by the Plan and the Claims Processor. The frequency shall be no less than monthly. If a claim was paid with State funds, then the Claims Processor shall disclose the Claims Payment Data on a member level. The Claims Processor is ~~not~~ required to disclose Claim Payment Data that reflects rates negotiated with or agreed to by a noncontracted third party but, upon request, shall provide to the Plan sufficient documentation to support the payment of claims for which Claim Payment Data is withheld on such basis.

(c) Any provision of any contract between a Claims Processor and a health care provider, subcontractor, or third party that would prevent or prohibit the Claims Processor from disclosing Claim Payment Data to the Plan, in accordance with this section, shall be void and unenforceable, but only to the extent the provision prevents and prohibits disclosure to the Plan.

(d) The Plan may use and disclose Claim Payment Data solely for the purpose of administering and operating the State Health Plan for Teachers and State Employees in accordance with G.S. 135-48.2 and the provisions of this Article. ~~The Plan shall not make any~~



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~~use or disclosure of Claim Payment Data that would compromise the proprietary nature of the data or, as applicable, its status as a trade secret, or otherwise misappropriate the data. In accordance with G.S. 135-48.10(a), Claim Payment Data shall be exempt from the provisions of Chapter 132 of the General Statutes or any other provision requiring information and records held by State agencies to be made public or accessible to the public. The Plan shall not make any use or disclosure of the Claim Payment Data that would compromise the proprietary nature of the data, or, as applicable, its status as a trade secret, or otherwise misappropriate the data.~~

~~(e) The Plan may not use a provider's Claim Payment Data to negotiate rates, fee schedules, or other master charges with that provider or any other provider. The Plan may not use a provider's Claim Payment Data to negotiate rates, fee schedules, or other master changes with that provider or any other provider.~~

(f) The Plan may disclose Claim Payment Data to a third party ~~auditor to use on the Plan's behalf as agreed upon between the Plan and the Claims Processor to verify the legitimacy of claims paid on behalf of the Plan.~~ Any disclosure to a third party auditor is subject to the provisions of this section with regard to the use and further disclosure of Claim Payment Data. The Plan must ~~obtain the agreement of~~ provide notice to the Claims Processor for each third party to whom the Plan seeks to disclose Claim Payment Data and for each use the third party will make of the data. The Plan may not disclose Claim Payment Data to any third party without first entering into a contract with the third party that contains restrictions on the use and disclosure of the Claim Payment Data by the third party that are at least as restrictive as the provisions of this section.

~~(g) A Claims Processor who discloses Claim Payment Data in accordance with this section shall not incur any civil liability and shall not be subject to equitable relief in connection for the disclosure. Anyone who discloses Claim Payment Data in violation of the provisions of this section is subject to a civil penalty no greater than two hundred fifty dollars (\$250.00) per violation."~~

SECTION 3. This act becomes effective January 1, 2022.