



House of Representatives

General Assembly

File No. 382

January Session, 2021

Substitute House Bill No. 6389

House of Representatives, April 12, 2021

The Committee on Insurance and Real Estate reported through REP. WOOD, K. of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EXPLANATIONS OF BENEFITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-477d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2023*):

3 (a) Each insurer, health care center, hospital service corporation,
4 medical service corporation, fraternal benefit society or other entity that
5 delivers, issues for delivery, renews, amends or continues a health
6 insurance policy providing coverage of the type specified in
7 subdivisions (1), (2), (4), (11) and (12) of section 38a-469 in this state,
8 shall:

9 (1) Make available to consumers, in an easily readable, accessible and
10 understandable format: [, the]

11 (A) The following information for each such policy: [(A)]

12 (i) Any coverage exclusions; [(B) any]

13 (ii) Any restrictions on the use or quantity of a covered benefit,
14 including on prescription drugs or drugs administered in a physician's
15 office or a clinic; [(C) a]

16 (iii) A specific description of how prescription drugs are included or
17 excluded from any applicable deductible, including a description of
18 other out-of-pocket expenses that apply to such drugs; [(D) the]

19 (iv) The specific dollar amount of any copayment and the percentage
20 of any coinsurance imposed on each covered benefit, including each
21 covered prescription drug; and [(E) information]

22 (v) Information regarding any process available to consumers, and all
23 documents necessary, to seek coverage of a noncovered outpatient
24 prescription drug; and

25 (B) With respect to explanations of benefits issued pursuant to
26 subsections (d) to (i), inclusive, of this section, a statement disclosing
27 that each consumer who is a covered individual and legally capable of
28 consenting to the provision of covered benefits under such policy may
29 specify that such insurer, center, corporation, society or entity, and each
30 third-party administrator, as defined in section 38a-720, providing
31 services to such insurer, center, corporation, society or entity, shall:

32 (i) Not issue explanations of benefits concerning covered benefits
33 provided to such consumer; or

34 (ii) (I) Issue explanations of benefits concerning covered benefits
35 provided to such consumer solely to such consumer; and

36 (II) Use a method specified by such consumer to issue such
37 explanations of benefits solely to such consumer, and provide sufficient
38 space in the statement for such consumer to specify a mailing address
39 or an electronic mail address for such insurer, center, corporation,
40 society, entity or third-party administrator to use to contact such
41 consumer concerning covered benefits provided to such consumer.

42 (2) Make available to consumers a way to determine accurately;

43 (A) [whether] Whether a specific prescription drug is available under
44 such policy's drug formulary;

45 (B) [the] The coinsurance, copayment, deductible or other out-of-
46 pocket expense applicable to such drug;

47 (C) [whether] Whether such drug is covered when dispensed by a
48 physician or a clinic;

49 (D) [whether] Whether such drug requires prior authorization or the
50 use of step therapy;

51 (E) [whether] Whether specific types of health care specialists are in-
52 network; and

53 (F) [whether] Whether a specific health care provider or hospital is
54 in-network.

55 (b) (1) Each insurer, health care center, hospital service corporation,
56 medical service corporation, fraternal benefit society or other entity
57 shall make the information and statement required under subsection (a)
58 of this section available to consumers at the time of enrollment and shall
59 post such information and statement on its Internet web site.

60 (2) The Connecticut Health Insurance Exchange, established
61 pursuant to section 38a-1081, shall post links on its Internet web site to
62 such information and statement for each qualified health plan that is
63 offered or sold through the exchange.

64 (c) The Insurance Commissioner shall post links on the Insurance
65 Department's Internet web site to any on-line tools or calculators to help
66 consumers compare and evaluate health insurance policies and plans.

67 (d) Except as provided in subsection (g) of this section, each insurer,
68 health care center, hospital service corporation, medical service
69 corporation, fraternal benefit society or other entity that delivers, issues
70 for delivery, renews, amends or continues a health insurance policy
71 described in subsection (a) of this section, and each third-party

72 administrator, as defined in section 38a-720, providing services to such
73 an insurer, center, corporation, society or entity, shall:

74 (1) Issue explanations of benefits to consumers who are covered
75 individuals under the policy; and

76 (2) Permit each consumer who is a covered individual under the
77 policy and legally capable of consenting to the provision of covered
78 benefits to specify, in writing, that such insurer, center, corporation,
79 society, entity or third-party administrator issue explanations of
80 benefits concerning covered benefits provided to such consumer solely
81 to such consumer, and specify, in writing, which of the following
82 methods such insurer, center, corporation, society, entity or third-party
83 administrator shall use to issue such explanations of benefits solely to
84 such consumer:

85 (A) Mailing such explanations of benefits to such consumer's mailing
86 address or another mailing address specified by such consumer;

87 (B) Sending such explanations of benefits to such consumer by
88 electronic means, including, but not limited to, electronic mail; or

89 (C) Making such explanations of benefits available to such consumer
90 by electronic means, provided making such explanations of benefits
91 available solely to such consumer by electronic means complies with all
92 applicable federal and state laws and regulations concerning data
93 security, including, but not limited to, 45 CFR Part 160, as amended from
94 time to time, and 45 CFR Part 164, Subparts A and C, as amended from
95 time to time.

96 (e) Each method specified by a consumer, in writing, pursuant to
97 subdivision (2) of subsection (d) of this section shall be valid until the
98 consumer submits a written specification to the insurer, center,
99 corporation, society, entity or third-party administrator for a different
100 method. Such insurer, center, corporation, society, entity or third-party
101 administrator shall comply with a written specification under this
102 subsection or subdivision (2) of subsection (d) of this section, as

103 applicable, not later than three business days after such insurer, center,
104 corporation, society, entity or third-party administrator receives such
105 specification.

106 (f) Each insurer, center, corporation, society, entity or third-party
107 administrator that receives a written specification from a consumer
108 pursuant to subdivision (2) of subsection (d) of this section or subsection
109 (e) of this section, as applicable, shall provide the consumer who made
110 such specification with written confirmation that such insurer, center,
111 corporation, society, entity or third-party administrator received such
112 specification, and advise such consumer, in writing, regarding the status
113 of such specification if such consumer contacts such insurer, center,
114 corporation, society, entity or third-party administrator, in writing,
115 regarding such specification.

116 (g) Each consumer who is a covered individual under a policy
117 described in subsection (a) of this section and is legally capable of
118 consenting to the provision of covered benefits may specify, in writing,
119 that the insurer, center, corporation, society or entity that delivered,
120 issued for delivery, renewed, amended or continued the policy, or a
121 third-party administrator providing services to such insurer, center,
122 corporation, society or entity, not issue explanations of benefits
123 pursuant to subsections (d) to (f), inclusive, of this section if such
124 explanations of benefits concern covered benefits that were provided to
125 such consumer. Such insurer, center, corporation, society, entity or
126 third-party administrator shall not require such consumer to provide
127 any explanation regarding the basis for such consumer's specification,
128 unless such explanation is required by applicable law or pursuant to an
129 order issued by a court of competent jurisdiction.

130 (h) Each insurer, center, corporation, society or entity that delivers,
131 issues for delivery, renews, amends or continues a policy described in
132 subsection (a) of this section, and each third-party administrator
133 providing services to such insurer, center, corporation, society or entity,
134 shall disclose to each consumer who is a covered individual under the
135 policy such consumer's ability to submit specifications pursuant to

136 subsections (d) to (g), inclusive, of this section. Such disclosure shall be
 137 in plain language and displayed or printed, as applicable, clearly and
 138 conspicuously in all evidence of coverage documents, privacy
 139 communications, explanations of benefits and Internet web sites that are
 140 maintained by such insurer, center, corporation, society, entity or third-
 141 party administrator and accessible to consumers in this state.

142 (i) No insurer, center, corporation, society or entity that is subject to
 143 subsections (d) to (h), inclusive, of this section shall require a consumer
 144 or policyholder to waive any right to limit disclosure under subsections
 145 (d) to (h), inclusive, of this section as a precondition to delivering,
 146 issuing for delivery, renewing, amending or continuing a policy
 147 described in subsection (a) of this section to the consumer or
 148 policyholder. Nothing in this subsection or subsections (d) to (h),
 149 inclusive, of this section shall be construed to limit a consumer's or
 150 policyholder's ability to request review of an adverse determination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2023	38a-477d

Statement of Legislative Commissioners:

In Subsec. (a)(1)(B), "subsections (d) to (i), inclusive," was substituted for "subsection (d)" for internal consistency; in Subsec. (d), Subsec. (d)(1) was redesignated Subsec. (d), Subsec. (d)(1)(A) was redesignated Subsec. (d)(1), Subsec. (d)(1)(B)(i) was redesignated Subsec. (d)(2), Subsec. (d)(1)(B)(i)(I) was redesignated Subsec. (d)(2)(A), Subsec. (d)(1)(B)(i)(II) was redesignated Subsec. (d)(2)(B), Subsec. (d)(1)(B)(i)(III) was redesignated Subsec. (d)(2)(C), Subsec. (d)(1)(B)(ii) was redesignated Subsec. (e), Subsec. (d)(1)(B)(iii) was redesignated Subsec. (f), Subsec. (d)(2) was redesignated Subsec. (g), Subsec. (d)(3) was redesignated Subsec. (h) and Subsec. (d)(4) was redesignated Subsec. (i) for consistency with standard drafting conventions; in Subsec. (d), "subsection (g) of this section" was substituted for "subdivision (2) of this subsection" for internal consistency; in Subsec. (e), "subdivision (2) of subsection (d) of this section" was substituted for "subparagraph (B)(i) of this subdivision", and "this subsection or subdivision (2) of subsection (d) of this section" was substituted for "this clause or subparagraph (B)(i) of this subdivision", for internal

consistency; in Subsec. (f), "subdivision (2) of subsection (d) of this section or subsection (e) of this section" was substituted for "subparagraph (B)(i) or (B)(ii) of this subdivision" for internal consistency; in Subsec. (g), "subsections (d) to (f), inclusive, of this section" was substituted for "subdivision (1) of this subsection" for internal consistency; in Subsec. (h), "subsections (d) to (g), inclusive, of this section" was substituted for "subdivisions (1) and (2) of this subsection" for internal consistency; and in Subsec. (i), "subsections (d) to (h), inclusive, of this section" was substituted for "this subsection" in two instances, and "or subsections (d) to (h), inclusive, of this section" was added, for internal consistency.

INS *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

There is no fiscal impact resulting from the bill, which makes various changes to the disclosure of health benefits and other information between carriers and their insured.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6389*****AN ACT CONCERNING EXPLANATIONS OF BENEFITS.*****SUMMARY**

This bill requires certain health insurance carriers and their third-party administrators (TPAs) to (1) provide an explanation of benefits (EOBs) to covered individuals for benefits they receive and (2) allow covered individuals, who can legally consent to receive covered medical services, to make a specific written selection about whether and how to receive the EOBs (see BACKGROUND). The bill requires health insurance carriers and TPAs to disclose EOB delivery options to covered individuals.

It prohibits a health insurance carrier from requiring a covered individual to waive his or her right to limit disclosure under the bill as a precondition to issuing, delivering, renewing, amending, or continuing a policy. The bill specifies that it does not limit a covered individual's or policy holder's ability to request an adverse determination review.

The bill applies to insurers, health care centers (i.e., HMOs), hospital and medical service corporations, fraternal benefit societies, and any other entity that delivers, issues, renews, amends, or continues a health insurance policy in Connecticut (i.e., "health insurance carriers") that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. It also applies to TPAs providing services to such health insurance carriers.

It also makes conforming and technical changes.

EFFECTIVE DATE: January 1, 2023

EXPLANATION OF BENEFITS (EOBs)***Delivery Method***

The bill requires health insurance carriers and TPAs to issue EOBs to consumers, but also allows covered individuals who can legally consent to receiving covered services to (1) specify how EOBs are delivered or (2) opt out of receiving them entirely.

Health insurance carriers and TPAs must allow a legally consenting consumer who is a covered individual to specify in writing that EOBs must be delivered solely to him or her by:

1. mail to his or her address or any other specified address;
2. e-mail or other electronic means; or
3. making the EOB available solely to him or her electronically, in compliance with certain federal privacy laws (e.g., through a patient portal).

Under the bill, the consumer's choice remains valid until he or she specifies another method in writing to the carrier. The health insurance carrier or TPA must comply with a consumer's written request for a specific delivery method within three business days after receiving it. Additionally, they must provide written confirmation of receipt and, if contacted by the consumer, advise on the status of his or her selection.

Opting Out

Covered individuals who can legally consent to benefits may specify, in writing, that the health insurance carrier or TPA not issue an EOB. In such a case, the carrier or TPA cannot require the covered individual to explain this decision unless required by law or pursuant to a court order.

Disclosures

Additionally, the bill requires health insurance carriers and TPAs to make available to consumers a statement disclosing that any covered individual who can legally consent to receiving covered benefits may specify that the carrier:

1. not issue EOBs concerning him or her or

2. issue them only to the consumer using the method he or she chooses.

The statement must (1) be in an easily readable, accessible, and understandable format and (2) include a space for the consumer to provide a mailing or email address.

Under the bill, the disclosure statement described above must be included in the benefits information that carriers must provide upon enrollment, and that both carriers and the Connecticut Health Insurance Exchange (Access Health CT) must make available on their websites.

The bill also requires health carriers and TPAs to disclose to insureds that they may (1) submit EOB delivery method requests or (2) request that EOBs not be delivered at all. This disclosure must be in plain language and displayed or printed clearly and conspicuously in all coverage documents, privacy communications, EOBs, and Internet websites the health carrier makes available to Connecticut consumers.

BACKGROUND

Medical Consent

Generally, adults may legally consent to medical procedures. By law, a minor may legally receive certain medical examination or treatment without his or her parent's consent, including sexually transmitted disease testing (CGS § 19a-216), alcohol or drug dependence treatment (CGS § 17a-688), and, in certain cases, HIV testing (CGS § 19a-592).

Related Bill

sHB 6461 (§ 6), favorably reported by Higher Education and Employment Advancement Committee, contains identical provisions.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 15 Nay 3 (03/22/2021)