House of Representatives

File No. 633

General Assembly

January Session, 2021

(Reprint of File No. 382)

Substitute House Bill No. 6389
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 6, 2021

AN ACT CONCERNING EXPLANATIONS OF BENEFITS.

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

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 Section 38a-477d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2023*):

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

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

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

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

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

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

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

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

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

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

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

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

(2) Make available to consumers a way to determine accurately:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Making such explanations of benefits available to such consumer by electronic means and notifying such consumer by electronic means, including, but not limited to, electronic mail, when such insurer, center, corporation, society, entity or third-party administrator makes each such explanation of benefits available to such consumer by electronic means, provided making such explanations of benefits available to such consumer by electronic means and notifying such consumer by electronic means complies with all applicable federal and state laws and regulations concerning data security, including, but not limited to, 45 CFR Part 160, as amended from time to time, and 45 CFR Part 164, Subparts A and C, as amended from time to time.

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

subsection or subdivision (2) of subsection (d) of this section, as applicable, not later than three business days after such insurer, center, corporation, society, entity or third-party administrator receives such specification.

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

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

(h) Each insurer, center, corporation, society or entity that delivers, issues for delivery, renews, amends or continues a policy described in subsection (a) of this section, and each third-party administrator providing services to such insurer, center, corporation, society or entity, shall disclose to each consumer who is a covered individual under the

policy such consumer's ability to submit specifications pursuant to subsections (d) to (g), inclusive, of this section. Such disclosure shall be in plain language and displayed or printed, as applicable, clearly and conspicuously in all evidence of coverage documents, privacy communications, explanations of benefits and Internet web sites that are maintained by such insurer, center, corporation, society, entity or third-party administrator and accessible to consumers in this state.

(i) No insurer, center, corporation, society or entity that is subject to subsections (d) to (h), inclusive, of this section shall require a consumer or policyholder to waive any right to limit disclosure under subsections (d) to (h), inclusive, of this section as a precondition to delivering, issuing for delivery, renewing, amending or continuing a policy described in subsection (a) of this section to the consumer or policyholder. Nothing in this subsection or subsections (d) to (h), inclusive, of this section shall be construed to limit a consumer's or 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

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 as amended, which makes various changes to the disclosure of health benefits and other information between carriers and their insured.

House "A" strikes the underlying bill and its associated fiscal impact. The amendment makes procedural changes to the electronic delivery of explanations of benefits and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
sHB 6389 (as amended by House "A")*

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 may 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 these health insurance carriers.

It also makes conforming and technical changes.

*House Amendment "A" eliminates the electronic EOB delivery option for covered individuals and instead specifies that EOBs may be made available electronically, and if so, requires that individuals be notified electronically of their availability.

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 it also allows covered individuals who may 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. mailing it to his or her address or any other specified address or

2. making it available electronically and notifying him or her electronically of its availability, including by e-mail or other electronic means, 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, it 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 be in an easily readable, accessible, and understandable format and 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 examinations 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) (File 264), favorably reported by Higher Education and Employment Advancement Committee, contains the same provisions as the underlying bill.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 15 Nay 3 (03/22/2021)