CHAPTER 216
FORMERLY
HOUSE BILL NO. 172
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 27, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2730. Collection of overpayments by health insurers and health plans.

(a) Other than recovery for duplicate payments, a health insurer or health plan, whenever it engages in overpayment recovery efforts, shall provide written notice to the healthcare provider that identifies the error made in the processing or payment of the claim and justifies the overpayment recovery.

(b) A health insurer or health plan shall provide a healthcare provider with the opportunity to challenge an overpayment recovery, including the sharing of claims information, and shall establish written policies and procedures for healthcare providers to follow to challenge an overpayment recovery.

(c) A health insurer or health plan shall not initiate overpayment recovery efforts more than twenty-four months after the original payment for the claim was made. No such time limit shall apply to overpayment recovery efforts which are:

(1) Based on a reasonable belief of fraud, abuse, or other intentional misconduct;

(2) Required by, or initiated at the request of, a self-insured plan; or

(3) Required by a state or federal government plan.

(d) Nothing in this section shall be deemed to limit a health insurer's or health plan's right to pursue recovery of overpayments that occurred prior to the effective date of this section where the health insurer or health plan has provided the healthcare provider with notice of such recovery efforts prior to the effective date of this section.

(e) For purposes of this section "health insurer" shall mean any entity or plan that provides health insurance in this State. Such terms shall include an insurance company, health service corporation, managed care organization, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Health insurer" shall also include any third-party administrator or other entity that adjusts, administers or settles claims in connection with health benefit plans.

(f) For purposes of this section, "health plan" shall mean any hospital or medical policy or certificate, major medical expense insurance, health service corporation subscriber contract, health maintenance organization subscriber contract, managed care organization subscriber contract, dental or vision plan. Health plan does not include accident-only, credit, Medicaid plans, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance or automobile medical payment insurance.

(g) Waiver Prohibited. The provisions of this section cannot be waived by contract. Any contractual arrangement in conflict with the provisions of this section or that purports to waive any requirements of this section is null and void.

Section 2. This Act shall take effect 90 days after its enactment.

Approved March 16, 2018