

1 AN ACT relating to health care trade practices.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 304.17C-130 TO 304.17C-138 IS  
4 CREATED TO READ AS FOLLOWS:

5 *(1) (a) An insurer providing coverage under a dental benefit plan shall honor a*  
6 *written assignment of payments due under the plan by a covered person to a*  
7 *provider for dental services provided to the covered person.*

8 *(b) A provider with a valid assignment under paragraph (a) of this subsection:*

9 *1. May:*

10 *a. Bill the insurer; and*

11 *b. Notify the insurer of the assignment; and*

12 *2. Shall provide a statement to the covered person, prior to performing a*  
13 *dental service associated with the assigned benefits, informing the*  
14 *covered person that the provider, as applicable:*

15 *a. Is an out-of-network provider;*

16 *b. May charge the covered person for services not covered under*  
17 *the dental benefit plan; and*

18 *c. May charge the covered person the balance of any bill for*  
19 *services that are covered under the dental benefit plan; and*

20 *3. Upon request, shall provide a copy of the assignment to the insurer.*

21 *(c) 1. Upon notice of an assignment made in accordance with paragraph (a)*  
22 *of this subsection, the insurer shall make payments directly to the*  
23 *provider.*

24 *2. Payments made to a provider under subparagraph 1. of this paragraph*  
25 *shall be at the same rate as payments made to in-network providers.*

26 *(2) (a) An assignment made in accordance with subsection (1) of this section may*  
27 *be revoked by the covered person, with or without the consent of the*

- 1           provider, by submitting the revocation, in writing, to the insurer.
- 2           (b) An insurer that receives a revocation referenced in paragraph (a) of this  
3           subsection shall send a copy of the revocation to the provider.
- 4           (c) A revocation made in accordance with this subsection shall:
- 5                 1. Become effective when both the insurer and the provider have received  
6                 a copy of the revocation; and
- 7                 2. Only be effective for any charges incurred on or after the effective  
8                 date established under subparagraph 1. of this paragraph.
- 9           (3) If, under an assignment made in accordance with subsection (1) of this section, a  
10           provider collects payment from a covered person and subsequently receives  
11           payment from the insurer, the provider shall reimburse the covered person, less  
12           any applicable cost sharing, within forty-five (45) days of receiving the payment  
13           from the insurer.
- 14           (4) An entity providing dental services shall provide conspicuous notice to covered  
15           persons that:
- 16                 (a) Any assignment of benefits is optional; and
- 17                 (b) Additional payments may be required if the assigned benefits are not  
18                 sufficient to pay for dental services received by the covered person.
- 19           (5) Nothing in this section shall be construed to limit an insurer's ability to:
- 20                 (a) Determine the scope of a dental benefit plan's benefits, services, or other  
21                 terms that are not in conflict with this section; or
- 22                 (b) Negotiate any contract with a health care provider regarding  
23                 reimbursement rates or any other lawful provisions that are not in conflict  
24                 with section.

25           ➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304  
26 IS CREATED TO READ AS FOLLOWS:

27           (1) As used in this section, the following have the same meaning as in KRS 304.17C-

1 130:

2 (a) "Dental services"; and

3 (b) "Provider."

4 (2) (a) An insurer providing coverage for dental services under a health insurance  
5 policy, certificate, plan, or contract, including but not limited to a health  
6 benefit plan, shall:

7 1. Honor assignments of dental benefits due under the policy, certificate,  
8 plan, or contract by an insured to a provider in accordance with  
9 Section 1 of this Act; and

10 2. Make payments in accordance with subsection (1)(c) of Section 1 of  
11 this Act to providers with valid assignments under this section.

12 (b) A provider with a valid assignment under this section shall comply with the  
13 requirements for providers under Section 1 of this Act.

14 ➔Section 3. KRS 304.17C-085 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Contractual discount" means a percentage reduction from a provider's usual  
17 and customary rate for covered services ~~and material~~ required under a  
18 participating provider agreement; and

19 (b) "Covered services":

20 1. Means services and materials for which:

21 a.~~[1.]~~Reimbursement from a plan is provided by the enrollee's plan  
22 contract; or

23 b.~~[2.]~~Reimbursement would be available but for the application of the  
24 enrollee's contractual limitations of deductibles, copayments,  
25 coinsurance, or frequency limitations; and

26 2. Does not include services and materials for which reimbursement  
27 would be available but for the application of the enrollee's contractual

1                                    **limitation of an annual maximum benefit.**

- 2        (2) A participating provider agreement shall not require a participating provider to  
3            provide services to an enrollee at a fee set by or subject to the approval of the  
4            limited health service benefit plan unless the services are covered services under the  
5            provider agreement.
- 6        (3) A provider shall not charge more for services and materials that are noncovered  
7            services under a limited health service benefit plan than the provider's rate for the  
8            services and materials.
- 9        (4) The amount of a contractual discount shall not result in a fee that is less than the  
10           limited health service benefit plan would pay for covered services but for the  
11           application an enrollee's contractual limitations of deductibles, copayments,  
12           coinsurance, or frequency limitations.
- 13       (5) Reimbursement paid by the limited health service benefit plan for covered services:  
14           (a) Shall be reasonable; and  
15           (b) Shall not provide nominal reimbursement in order to claim that services and  
16           materials are covered services.

17       **(6) The provisions of this section shall not be waived by contract. Any contractual**  
18           **arrangement in conflict with this section or that purports to waive any**  
19           **requirement of this section shall be null and void.**

20       ➔Section 4. KRS 304.14-250 is amended to read as follows:

21       Except as provided in **Sections 1 and 2 of this Act and** KRS 304.17A-265:

- 22       (1) A policy may be assignable or not assignable, as provided by its terms;
- 23       (2) Subject to its terms relating to assignability, a life or health insurance policy,  
24           regardless of when it was issued, under the terms of which the beneficiary may be  
25           changed upon the sole request of the insured or owner, may be assigned either by  
26           pledge or transfer of title, by an assignment executed by the insured or owner alone  
27           and delivered to the insurer, whether or not the pledgee or assignee is the insurer;

1 (3) Any assignment of a policy which is otherwise lawful and of which the insurer has  
2 received notice shall entitle the insurer to deal with the assignee as the owner or  
3 pledgee of the policy in accordance with the terms of the assignment, until the  
4 insurer has received at its principal office written notice of the termination of the  
5 assignment or pledge or written notice by or on behalf of some interest in the policy  
6 in conflict with the assignment; and

7 (4) (a) Any individual insured under a group insurance policy or group annuity  
8 contract shall have the right, unless expressly prohibited under the terms of  
9 the policy or contract, to assign to any other person his rights and benefits  
10 under the policy or contract, including but not limited to the right to designate  
11 the beneficiary or beneficiaries and the rights as to conversion provided for in  
12 KRS 304.16-180 to 304.16-200, inclusive.

13 (b) While the assignment is in effect, and regardless of when it was made, the  
14 insurer shall be entitled to deal with the assignee as the owner of the rights  
15 and benefits in accordance with the terms of the assignment and without  
16 prejudice to the insurer on account of any lawful action taken or payment  
17 made by the insurer prior to receipt by the insurer at its principal office of  
18 written notice of the assignment or of the termination thereof.

19 (c) This subsection acknowledges, confirms, and codifies the existing right of  
20 assignment of interests under group life insurance policies.

21 ➔Section 5. KRS 304.17-130 is amended to read as follows:

22 (1) There shall be a provision as follows:

23 "Payment of Claims: Indemnity for loss of life will be payable in accordance with  
24 the beneficiary designation and the provisions respecting payment which may be  
25 prescribed herein and effective at the time of payment. If no designation or  
26 provision is then effective, any indemnity shall be payable to the estate of the  
27 insured. Any other accrued indemnities unpaid at the insured's death may, at the

1 option of the insurer, be paid either to a beneficiary or to the estate. All other  
2 indemnities will be payable to the insured."

3 (2) Except as provided in Sections 1 and 2 of this Act and KRS 304.17A-265, the  
4 following provisions, or either of them, may be included with the provision required  
5 under subsection (1) of this section at the option of the insurer:

6 (a) "If any indemnity of this policy shall be payable to the estate of the insured, or  
7 to an insured or beneficiary who is a minor or otherwise not competent to give  
8 a valid release, the insurer may pay such indemnity, up to an amount not  
9 exceeding \$.... (insert an amount which shall not exceed \$5,000), to any  
10 relative by blood or connection by marriage of the insured or beneficiary who  
11 is deemed by the insurer to be equitably entitled thereto. Any payment made  
12 by the insurer in good faith pursuant to this provision shall fully discharge the  
13 insurer to the extent of the payment."; and

14 (b) "Subject to any written direction of the insured in the application or otherwise,  
15 all or a portion of any indemnities provided by this policy on account of  
16 hospital, nursing, medical, or surgical services may, at the insurer's option and  
17 unless the insured requests otherwise in writing not later than the time of  
18 filing proofs of the loss, be paid directly to the hospital or person rendering  
19 services, but it is not required that the service be rendered by a particular  
20 hospital or person."

21 ➔Section 6. KRS 304.18-090 is amended to read as follows:

22 Except as provided in Sections 1 and 2 of this Act and KRS 304.17A-265:

23 (1) Subject to subsection (2) of this section, all benefits under any blanket health  
24 insurance policy or contract shall be payable to the person insured, or to the  
25 person's designated beneficiary or beneficiaries, or to the person's estate, except that  
26 if the person insured is a minor or otherwise not competent to give a valid release,  
27 the benefits may be made payable to the person's parent, guardian, conservator, or

1 other person actually supporting the minor or person not competent to give a valid  
2 release; and

3 (2) (a) A blanket health insurance policy or contract may provide that all or a portion  
4 of any indemnities provided by the policy or contract on account of hospital,  
5 nursing, medical, or surgical services may, at the option of the insurer and  
6 unless the insured requests otherwise in writing not later than the time of  
7 filing proofs of such loss, be paid directly to the hospital or person rendering  
8 such services, but the policy or contract may not require that the service be  
9 rendered by a particular hospital or person.

10 (b) Payment made directly to a hospital or other person for all or a portion of any  
11 indemnities provided by a blanket health insurance policy or contract shall  
12 discharge the obligation of the insurer with respect to the amount of insurance  
13 so paid.

14 ➔Section 7. This Act shall apply to policies, plans, and contracts issued or  
15 renewed on or after the effective date of this Act.