

1 AN ACT relating to electronic delivery of health plan communications.

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

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304  
4 IS CREATED TO READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Communications" includes health insurance identification cards and*  
7 *other documents;*

8 *(b) "Covered person" means an individual that:*

9 *1. Is an employer-sponsored group member or a dependent of an*  
10 *employer-sponsored group member; and*

11 *2. Receives health benefits under an employer-sponsored group health*  
12 *insurance policy, certificate, plan, or contract;*

13 *(c) "Dependent of an employer-sponsored group member" or "dependents of*  
14 *an employer-sponsored group member" means an individual or individuals*  
15 *that are entitled to receive health benefits under an employer-sponsored*  
16 *group health insurance policy, certificate, plan, or contract solely due to a*  
17 *relationship to an employer-sponsored group member;*

18 *(d) "Employer" does not include a federal, state, or local government,*  
19 *including a:*

20 *1. Federal, state, or local government entity, agency, or instrumentality;*  
21 *and*

22 *2. Public school district or public institution of education;*

23 *(e) "Employer-sponsored group health insurance policy, certificate, plan, or*  
24 *contract" includes limited-scope dental or vision benefits offered by an*  
25 *employer under a separate insurance policy, certificate, plan, or contract;*

26 *(f) "Employer-sponsored group member" means an individual that is entitled*  
27 *to receive health benefits under an employer-sponsored group health*

1 insurance policy, certificate, plan, or contract as a member of the insured  
2 group; and

3 (g) "Insurer" has the same meaning as in KRS 304.17A-005, except for  
4 purposes of this section, the term does not include a self-insurer of a  
5 governmental plan.

6 (2) Notwithstanding any other law, an insurer may deliver all communications  
7 relating to an employer-sponsored group health insurance policy, certificate,  
8 plan, or contract to a covered person by electronic means if:

9 (a) The employer consents to electronic delivery of communications on behalf  
10 of the covered person; and

11 (b) The insurer complies with subsection (4) of this section.

12 (3) An employer may consent to the electronic delivery of communications under  
13 subsection (2) of this section if the employer confirms the following for the  
14 covered person:

15 (a) The covered person is:

16 1. An employer-sponsored group member that routinely uses electronic  
17 communications during the normal course of employment or  
18 otherwise; or

19 2. A dependent of an employer-sponsored group member referenced in  
20 subparagraph 1. of this paragraph; and

21 (b) Either:

22 1. If the covered person is an employer-sponsored group member, the  
23 covered person:

24 a. Was given an opportunity to opt out of delivery to the employer-  
25 sponsored group member and dependents of the employer-  
26 sponsored group member by electronic means; and

27 b. Will be given an opportunity to opt out of delivery to the

1                   employer-sponsored group member and dependents of the  
 2                   employer-sponsored group member by electronic means on an  
 3                   annual basis; or

4                   2. If the covered person is not an employer-sponsored group member, the  
 5                   covered person is a dependent of an employer-sponsored group  
 6                   member referenced in subparagraph 1. of this paragraph.

7 (4) Insurers that provide electronic delivery of communications under this section  
 8 shall:

9                   (a) Comply with the:

10                   1. Federal Electronic Signatures in Global and National Commerce Act,  
 11                   15 U.S.C. sec. 7001 et seq.; and

12                   2. Uniform Electronic Transactions Act, KRS 369.101 to 369.120;

13                   (b) Not take adverse action against a covered person because the person opts  
 14                   out, or is opted out, of electronic delivery of communications under this  
 15                   section; and

16                   (c) Document compliance with this section.

17                   ➔Section 2. This Act applies to contracts entered or renewed on or after the  
 18 effective date of this Act.