



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 104**

**SENATE BILL NO. 1297**

**By Bailey**

Substituted for: House Bill No. 887

By Hawk, Moody

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 71, relative to paperless electronic communications.

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 1, is amended by adding the following as a new part:

### **56-1-10\_\_ Definitions.**

As used in this part:

(1) "Health benefit plan" means a policy, contract, certificate, or agreement entered into, offered by, or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services, including a vision or dental benefit plan and a nonprofit dental service plan, as defined in § 56-30-102; and

(2) "Plan sponsor" means an insured person, other than a regulated entity, who establishes, adopts, or maintains a health benefit plan that covers residents of this state, including a plan established, adopted, or maintained by an employer or jointly by an employer and one (1) or more employee organizations, an association, a committee, a joint board of trustees, or any similar group of representatives who establish, adopt, or maintain a plan.

### **56-1-10\_\_ Electronic opt-out provisions.**

(a) The plan sponsor of a health benefit plan may, on behalf of covered persons in the plan, provide consent to the delivery of all communications related to the plan by electronic means, including the electronic delivery of a health insurance identification card.

(b) Before consenting on behalf of insureds a plan sponsor shall confirm that the party routinely uses electronic communications during the normal course of employment.

(c) Before providing delivery by electronic means, the insurer for the health benefit plan shall:

(1) Provide the insured with an opportunity to opt out of delivery by electronic means; and

(2) Implement and adhere to a policy that contains the following criteria:

(A) If the insurer becomes aware that the insured's email address at which the insured has consented to receive notices or documents is no longer valid, the insurer shall send physical notices or documents to the insured at the insured's mailing address on file with the insurer;

(B) The insurer will retain records for five (5) years, including proof of the date of each electronic mailing and the email address to which each

mailing was sent. The records must be retrievable for a period of five (5) years after the date of the mailing;

(C) The insured may withdraw his or her consent to receive mailings electronically at any time;

(D) All conditions have been satisfied to facilitate the electronic mailing of notices and documents, unless existing law requires notices and documents to be delivered by a particular method;

(E) All conditions to facilitate the electronic mailing of notices and documents have been satisfied under the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et seq.); and

(F) The insurer will not cancel, refuse to issue, or refuse to renew a policy because the applicant or insured refuses to agree to receive electronic mailings of notices and documents pursuant to this section.

(d) This section does not apply to TennCare or any successor program provided for in title 71, chapter 5, or to the CoverKids Act of 2006 or any successor program provided for in title 71, chapter 3, part 11.

SECTION 2. This act takes effect July 1, 2023, the public welfare requiring it, and applies to policies under a health benefit plan entered into, amended, or renewed on or after such date.


SENATE BILL NO. 1297

PASSED: March 13, 2023

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 31<sup>st</sup> day of March 2023

  
BILL LEE, GOVERNOR