

THIRD PARTY ADMINISTRATOR ACT (EXCERPT)
Act 218 of 1984

550.932 Benefit plan; notice; plan covering less than 500 individuals; service contract between TPA and governmental entity not subject to ERISA; construction of act.

Sec. 32.

(1) A TPA, in connection with a benefit plan, shall provide in its service contract a provision that the person contracting for the services shall provide written notice to each individual covered by the plan, which written notice shall contain the following information:

- (a) What benefits are being provided.
- (b) Of changes in benefits.
- (c) The fact that individuals covered by the plan are not insured or are only partially insured, as the case may be.
- (d) If the plan is not insured, the fact that in the event the plan or the plan sponsor does not ultimately pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for those expenses.

(e) The fact that the TPA merely processes claims and does not insure that any medical expenses of individuals covered by the plan will be paid.

(f) The fact that complete and proper claims for benefits made by individuals covered by the plan will be promptly processed but that in the event there are delays in processing claims, the individuals covered by the plan shall have no greater rights to interest or other remedies against the TPA than as otherwise afforded them by law.

(2) The written notice required by subsection (1) shall be prominently displayed in the summary plan description or in a separate document. The notice shall be communicated to the individuals covered by the plan within 60 days after becoming covered, upon each republication of the summary plan description, and in any case not less than every 5 years in a manner calculated to be received and understood by the average individual covered by the plan. As used in subsections (1) and (2), "individual covered by a plan" includes only 1 individual per family covered by a plan. The written notice required by this section shall not apply to any plan in effect on the effective date of this act until the earlier of the following:

- (a) The due date under ERISA for distributing updated summary plan descriptions.
- (b) Two years after the effective date of this act.

(3) Except as provided in subsection (4), a TPA shall not enter into a service contract for a plan covering less than 500 individuals.

(4) A TPA may enter into a service contract for a plan covering less than 500 individuals, if either the TPA makes arrangements for excess loss insurance or the sponsor of the plan is liable for the plan's liabilities and is a sponsor of 1 or more plans covering 500 or more individuals in the aggregate. The commissioner, upon the advice of the board, shall establish the standards for the manner and amount of the excess loss insurance required by this subsection. A TPA may continue to provide administrative services under a service contract for a plan covering less than 500 individuals if the service contract was in existence on the effective date of this act, including the renewal of that service contract.

(5) A service contract between a TPA and a governmental entity not subject to ERISA, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by a carrier before the signing of the service contract, is void unless the governmental entity has provided the written notice described in subsection (1) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subsection shall not relieve the governmental entity of any obligations to the TPA under the service contract.

(6) Nothing in this act shall be construed to regulate or authorize an employee welfare benefit plan which is a multiple employer welfare arrangement. Nothing in this act shall be construed to permit an actionable interference by a TPA with the rights and obligations of the parties under a collective bargaining agreement.

History: 1984, Act 218, Eff. Jan. 1, 1985