



HOUSE BILL 169: State Health Plan Data Transparency.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 14, 2022
Introduced by: Reps. Goodwin, Potts, Everitt, Dahle	Prepared by: Jason Moran-Bates
Analysis of: Third Edition	Staff Attorney

OVERVIEW: *House Bill 169 amends the State Health Plan's use or disclosure of Claim Payment Data, but provides that Claim Payment Data is exempt from the public records law and any other provision requiring information and records held by State agencies to be made public or accessible to the public.*

CURRENT LAW AND BACKGROUND: The State Health Plan for Teachers and State Employees (Plan) is addressed in Article 3B of Chapter 135 of the General Statutes. The Plan's benefits must be provided under contracts between the Plan and the claims processors selected by the Plan. G.S. 135-48.32(a). Unless the Plan directs otherwise, each Claims Processor must provide the Plan with a Claims Data Feed, which includes all Claim Payment Data. G.S. 135-48.32(b).

"Claim Payment Data" is defined as "[d]ata fields within a Claims Data Feed that reflect the provider and the amount the provider billed for services provided to a Plan member, the allowed amount applied to the claim by the Claims Processor, and the amount paid by the Plan on the claim. The term 'Claim Payment Data' includes any document, material, or other work, whether tangible or electronic, that is derived from, is based on, or reflects any of the foregoing data fields or information contained therein." G.S. 135-48.1(2b).

The Claims Processor is not required to disclose Claim Payment Data that reflects rates negotiated with or agreed to by a noncontracted third party but, upon request, must provide sufficient documentation to support the payment of claims for which Claim Payment Data is withheld. G.S. 135-48.32(b).

The Plan may use and disclose Claim Payment Data solely for the purpose of administering and operating the Plan. The Plan must *not* do any of the following: (1) use or disclose Claim Payment Data that would compromise the proprietary nature of the data or its status as a trade secret, (2) misappropriate the data, or (3) use a provider's Claim Payment Data to negotiate rates, fee schedules, or other charges with that provider or any other provider. G.S. 135-48.32(d)-(e).

The Plan may disclose Claim Payment Data to a third party to use on the Plan's behalf as agreed upon between the Plan and the Claims Processor. The Plan must obtain the agreement of the Claims Processor for each third party to whom the Plan seeks to disclose Claim Payment Data and for each use the third party will make of the data. The Plan may not disclose Claim Payment Data to any third party without first entering into a contract with the third party that contains restrictions on the use and disclosure of the Claim Payment Data by the third party that are at least as restrictive as these provisions. G.S. 135-48.32(f).

BILL ANALYSIS:

Section 1 removes language prohibiting the use or disclosure of Claim Payment Data that would compromise the proprietary nature of the data or its status as a trade secret, misappropriate the data, or use

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a provider's Claim Payment Data to negotiate rates, fee schedules, or other charges with that provider or any other provider. It also creates a definition for "Non-Contracted Third Party."

Section 2 does all of the following:

- Provides that if a claim was paid with State funds, then the Claims Processor must disclose the Claims Payment Data on a member level.
- Removes the requirement that the Claim processor provide the Plan with sufficient data to support payment of claims for which Claim Payment Data is withheld.
- Requires the Claims Processor to provide the Plan, upon request, with Claim Payment Data that reflects rates negotiated with Non-Contracted Third Parties. If that data is not available, the Claim Processor must provide sufficient data to support the payment of the claim.
- Provides that Claim Payment Data is exempt from the public records law or any other provision requiring information and records held by State agencies to be made public or accessible to the public.
- Removes the prohibition on the Plan using Claim Payment Data to negotiate rates or fee schedules.
- Allows the Plan to disclose Claim Payment Data to a third party for use on the Plan's behalf. Before doing so, the Plan must first provide notice to the Claims Processor.
- Clarifies that the only parties with legal standing to pursue claims for violation or enforcement of the disclosure provisions are the Plan and the Claims Processor.

EFFECTIVE DATE: The bill would be effective when it becomes law.

****Brad Krehely of the Legislative Analysis Division substantially contributed to this summary.*