

Regular Session, 2014

HOUSE BILL NO. 506

BY REPRESENTATIVE GREENE

INSURANCE/HEALTH: Provides with respect to notice requirements for qualified health plan issuers on the health insurance exchange

1 AN ACT

2 To enact Subpart O of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of  
3 1950, to be comprised of R.S. 22:1260.31 through 1260.38, relative to health  
4 insurance; to provide for certain notice requirements which must be satisfied by  
5 health insurance issuers offering plans on the exchange; to provide definitions; to  
6 provide for recoupment deadlines; to provide for injunctive relief and penalties; to  
7 provide for rules and regulations; to provide for severability; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart O of Part III of Chapter 4 of Title 22 of the Louisiana Revised  
11 Statutes of 1950, comprised of R.S. 22:1260.31 through 1260.38, is hereby enacted to read  
12 as follows:

13 SUBPART O. PHYSICIAN AND PROVIDER NOTIFICATION OF PATIENTS IN  
14 HEALTH INSURANCE EXCHANGE GRACE PERIOD ACT

15 §1260.31. Short title

16 This Subpart shall be known and may be cited as the "Physician and Provider  
17 Notification of Patients in Health Insurance Exchange Grace Period Act".

18 §1260.32. Definitions

19 As used in this Subpart, the following words shall have the following  
20 meanings, unless the context clearly indicates otherwise:

1           (1) "Enrollee" means a qualified individual or qualified employee enrolled  
2           in a qualified health plan. An enrollee is generally a person eligible for services  
3           covered by a specific health insurance plan in the exchange.

4           (2) "Grace period" is a period that applies to recipients of advance payments  
5           of the premium tax credit allowed for certain individuals to purchase health  
6           insurance coverage on the exchange. The grace period provides three consecutive  
7           months for an enrollee to pay a delinquent premium when that enrollee has paid a  
8           premium at least one full month during the benefit year. The grace period begins  
9           when the enrollee fails to pay the premium for a particular month.

10           (3) "Health insurance exchange" or "exchange" means a governmental  
11           agency or nonprofit entity that meets the applicable standards of the Patient  
12           Protection and Affordable Care Act and makes qualified health plans available to  
13           qualified individuals and qualified employers.

14           (4) "Qualified health plan" means a health insurance plan that has in effect  
15           a certification that the qualified health plan meets applicable state or federal  
16           standards required for participation in a health insurance exchange. These may  
17           include minimum standards for essential health benefits, deductibles, copayments,  
18           out-of-pocket maximum amounts, and other requirements.

19           (5) "Qualified health plan issuer" means a health insurance issuer that offers  
20           a qualified health plan in accordance with a certification from an exchange.

21           §1260.33. Notice requirements

22           A. Timing of notice to physician or provider of grace period status.

23           (1) When a physician or other healthcare provider or his representative  
24           requests information regarding an enrollee from a qualified health plan issuer about  
25           eligibility, coverage, or health plan benefits, or the status of a claim or claims for  
26           services provided, and the request or service is for a date within the second or third  
27           month of a grace period, the qualified health plan issuer shall clearly identify that the  
28           applicable enrollee is in the grace period and provide additional information as  
29           required by this Subpart.

1           (2) Unless the qualified health plan issuer makes the notice available on its  
2           website or by other electronic means, the qualified health plan issuer shall provide  
3           the notice through the same medium through which the physician or other healthcare  
4           provider or his representative sought the information from the qualified health plan  
5           issuer pursuant to Paragraph (1) of this Subsection.

6           (3) The information provided about the enrollee's grace period status shall  
7           be binding on the qualified health plan pursuant to this Subpart.

8           B. Specific notice requirements.

9           (1) If the qualified health plan issuer informs the physician or other  
10          healthcare provider or his representative that the enrollee is eligible for services but  
11          not that the enrollee is in the grace period, the determination shall be binding on the  
12          qualified health plan issuer and it shall pay the claims for covered services in  
13          accordance with the qualified health plan.

14          (2) The binding determination shall preclude the qualified health plan issuer  
15          from seeking to recoup payment from the physician or other healthcare provider for  
16          services rendered during the grace period.

17          (3) If the qualified health plan issuer informs the physician or other  
18          healthcare provider that the enrollee is in a grace period, he shall then provide further  
19          notification pursuant to Subsection C of this Section.

20          C. Contents of notice. The notice to the physician or other healthcare  
21          provider shall include but not be limited to the following:

22                 (1) Purpose of the notice.

23                 (2) The full legal name of the enrollee and any unique identifying numbers.

24                 (3) The name of the qualified health plan.

25                 (4) The unique health plan identifier of the qualified health plan.

26                 (5) The name of the qualified health plan issuer.

27                 (6) The specific date upon which the grace period for the enrollee began and  
28          the specific date upon which the grace period will expire.

1           D. In a conspicuous location on a qualified health plan website, the qualified  
2           health plan issuer shall provide the following information:

3           (1) Whether the qualified health plan issuer will pend any claims of the  
4           physician or other healthcare provider for services that the physician or other  
5           healthcare provider furnishes to the enrollee during the grace period.

6           (2) A statement indicating that should the qualified health plan issuer  
7           indicate that it will pay some or all of the claims for services provided to an enrollee  
8           during the grace period, whether and how it will seek to recoup claims payments  
9           made to physicians or healthcare providers for services furnished during the grace  
10          period.

11          §1260.34. Strict compliance required

12           A qualified health plan issuer shall be obligated to pay for any covered claims  
13           for services rendered during a grace period if he has failed to strictly comply with the  
14           provisions of this Subpart. Such payment shall be in accordance with the terms of  
15           the qualified health plan.

16          §1260.35. Deadline for overpayment recoveries

17           If the qualified health plan issuer seeks to recoup or otherwise recover  
18           payments made to the physician or other healthcare provider for services furnished  
19           to an enrollee during the grace period and that enrollee's coverage is subsequently  
20           cancelled for nonpayment of premium, the qualified health plan issuer shall  
21           commence such recovery or recoupment efforts no later than sixty days after the  
22           expiration of the grace period. Any attempts to recover payments that are  
23           commenced subsequent to this sixty-day period shall be null and void.

24          §1260.36. Waiver prohibited

25           The provisions of this Subpart cannot be waived by contract. Any  
26           contractual arrangements in conflict with the provisions of this Subpart or that  
27           purport to waive any requirements of this Subpart are null and void.

1        §1260.37. Injunction and penalties

2                Any physician or other healthcare provider may request a court of appropriate  
3        jurisdiction to issue an injunction to enforce any provision of this Subpart.

4        §1260.38. Rules and regulations

5                The commissioner of insurance shall promulgate all rules and regulations  
6        which are necessary and proper to carry out the provisions of this Subpart. All rules  
7        and regulations promulgated pursuant to this Subpart shall be in accordance with the  
8        Administrative Procedure Act.

9        Section 2. If any provision of this Act or the application thereof is held invalid, such  
10   invalidity shall not affect other provisions or applications of this Act which can be given  
11   effect without the invalid provisions or applications, and to this end the provisions of this  
12   Act are hereby declared severable. The severability provision of this Section shall be  
13   broadly construed as to give effect to each and every possible provision or application of this  
14   Act which is not specifically held invalid, unlawful, or unconstitutional.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Greene

HB No. 506

**Abstract:** Provides notice requirements and procedures for qualified health plan issuers on the exchange for enrollees in a grace period.

Proposed law provides definitions.

Proposed law requires that when a physician, other healthcare provider, or his representative requests information from a qualified health plan issuer regarding the eligibility of an enrollee, his coverage, plan benefits, status of a claim, or reports a claim in a remittance advice, and the request is made in the 2nd or 3rd month of a grace period, the qualified health plan issuer shall provide the information and identify that the enrollee is in a grace period.

Proposed law provides that the information regarding the enrollee's grace period status is binding on the qualified health plan.

Proposed law further requires that the information be provided through the same medium the information was sought or be provided on the qualified health plan issuer's website or by the method the provider who requested the information normally receives claims remittance advice information.

Proposed law provides that if a qualified health plan issuer informs a physician or healthcare provider that an enrollee is eligible for services but does not inform the provider that the enrollee is in a grace period, then the qualified health plan issuer is responsible for paying the claims and he will be unable to recoup payment from the physician or other healthcare provider.

Proposed law requires that the notice include:

- (1) The purpose of the notice.
- (2) The full legal name of the enrollee and any unique identifying numbers.
- (3) The name of the qualified health plan.
- (4) The unique health plan identifier of the qualified health plan.
- (5) The name of the qualified health plan issuer.
- (6) The specific date upon which the grace period for the enrollee began and the specific date upon which it will expire.

Proposed law requires the qualified health plan issuer to clearly outline on the qualified health plan website whether it will pay any claims during the grace period as well as a statement which indicates if whether and how it will seek recoupment of payment for the payment of such claims.

Proposed law provides that failure to comply with the requirements of proposed law will result in the mandate of the qualified health issuer to pay for any and all covered claims for services furnished by the physician or healthcare provider to an enrollee during a grace period in accordance with the terms of the qualified health plan.

Proposed law provides that a qualified health plan issuer has up to 60 days after the expiration of the grace period to seek recoupment of services provided during the grace period.

Proposed law prohibits the waiver of any provisions of proposed law by contract.

Proposed law allows a physician or other healthcare provider to request an injunction in an appropriate court for the enforcement of proposed law.

Proposed law allows the commissioner of insurance to promulgate any rules and regulations necessary to carry out the provisions of proposed law.

Proposed law provides for severability of its provisions.

(Adds R.S. 22:1260.31-1260.38)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the original bill.

1. Removed provision making violation of proposed law an unfair trade practice in the business of insurance.
2. Removed "other health insurance plan" from the definition of "enrollee" in proposed law.

3. Added that the grace period allows the enrollee 3 months to pay a delinquent premium in proposed law.
4. Removed reports of a claim in a remittance advice from the notice requirements in proposed law.
5. Added that the qualified health plan issuer may make the notice required in proposed law available by posting the notice on its website or by other electronic means, in lieu of providing the notice in the medium in which the request for information was made or by the method the provider who requested the information normally receives claims remittance advice information.
6. Added that proposed law requires the qualified health plan issuer pay a claim for covered services rendered during the grace period in accordance with the plan when the issuer informs a provider that the enrollee is eligible for services but not that the enrollee is in the grace period.
7. Removed requirement in proposed law that the qualified health plan issuer post on the issuer's website an explanation of the issuer's plan of action during the grace period and upon exhaustion of the grace period that includes options for the provider and the enrollee.
8. Added that payment for covered claims in proposed law shall be in accordance with the terms of the qualified health plan.
9. Added that a qualified health plan issuer may attempt to recover payment for services furnished to an enrollee during the grace period when coverage is subsequently cancelled for nonpayment of premium.
10. Made technical changes.