

**304.17A-099 Qualified health plans -- Effect of requirement that state make payments under federal law to defray the cost of application of provision of chapter -- Administrative regulations.**

- (1) As used in this section, "qualified health plan" has the same meaning as in 42 U.S.C. sec. 18021(a)(1), as amended.
- (2) Notwithstanding any other provision of this chapter:
  - (a) Except as provided in paragraph (b) of this subsection, if the application of a provision of this chapter results, or would result, in a determination that the state must make payments to defray the cost of the provision under 42 U.S.C. sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as amended, then the provision shall not apply to a qualified health plan or any other health insurance policy, certificate, plan, or contract until the requirement to make cost defrayal payments is no longer applicable; and
  - (b) This subsection shall not apply to a provision of this chapter that became effective on or before January 1, 2024.
- (3) To the extent permitted by federal law, if the state is required under 42 U.S.C. sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as amended, to make payments to defray the cost of a provision of this chapter:
  - (a)
    1. Each qualified health plan issuer shall determine, and provide to the commissioner, the cost attributable to the provision for the qualified health plan.
    2. The cost attributable to a provision for a qualified health plan under subparagraph 1. of this paragraph shall be:
      - a. Calculated in accordance with generally accepted actuarial principles and methodologies;
      - b. Conducted by a member of the American Academy of Actuaries; and
      - c. Reported by the qualified health plan issuer to:
        - i. The commissioner; and
        - ii. The Division of Health Benefit Exchange within the Office of Data Analytics;
  - (b) The commissioner shall use the information obtained under paragraph (a) of this subsection to determine the statewide average of the cost attributable to the provision for all qualified health plan issuers to which the provision is applicable; and
  - (c) The required payments shall be:
    1. Calculated based on the statewide average of the cost attributable to the provision as determined by the commissioner under paragraph (b) of this subsection; and
    2. Submitted directly to qualified health plan issuers by the department through a process established by the commissioner.
- (4) A qualified health plan issuer that receives a payment under subsection (3)(c)2. of this section shall:

- (a) Reduce the premium charged to an individual on whose behalf the issuer received the payment in an amount equal to the amount of the payment; or
  - (b) Notwithstanding KRS 304.12-090, provide a premium rebate to an individual on whose behalf the issuer received the payment in an amount equal to the amount of the payment.
- (5) Any fines collected for violations of this section shall be:
- (a) Placed in a trust and agency account within the department, which shall not lapse; and
  - (b) Used solely by the department to make payments in accordance with subsection (3)(c)2. of this section.
- (6) The commissioner shall promulgate any administrative regulations necessary to enforce and effectuate this section.

**Effective:** April 9, 2024

**History:** Created 2024 Ky. Acts ch. 120, sec. 2, effective April 9, 2024.