

304.17A-265 Insurer may not restrict assignment of benefits to substance abuse or mental health facility -- Exceptions -- Requirements for assignment -- Construction.

- (1) As used in this section:
 - (a) "Health insurance policy":
 1. Includes any health insurance policy, certificate, plan, or contract or managed care plan, as defined in KRS 304.17A-500, regardless of whether the policy, certificate, plan, or contract was issued or delivered in this state; and
 2. Does not include Medicare or Medicaid benefits;
 - (b) "Insurer":
 1. Means any domestic, foreign, or alien insurer, self-insurer, self-insured plan, or self-insured group; and
 2. Includes any domestic, foreign, or alien:
 - a. Health maintenance organization;
 - b. Limited health service organization;
 - c. Provider-sponsored integrated health delivery network; and
 - d. Nonprofit hospital, medical-surgical, dental, and health service corporation; and
 - (c) "Substance abuse or mental health facility" means a structurally distinct public or private health care establishment, institution, or facility located and licensed in this state that is primarily constituted, staffed, and equipped to deliver substance abuse or mental health treatment services, or both substance abuse and mental health treatment services, to the general public.
- (2) To the extent permitted under federal law, an insurer or its agent:
 - (a) Shall not prohibit or restrict, except as provided in paragraph (b) of this subsection, an insured under a health insurance policy from making a written assignment of any substance abuse or mental health treatment benefits available under the policy to a substance abuse or mental health facility; and
 - (b) May require a substance abuse or mental health facility that receives a written assignment of benefits from an insured to:
 1. Provide the following information to the insured prior to performing a health care service associated with the benefits:
 - a. A statement informing the insured that the facility, as applicable:
 - i. Is an out-of-network provider;
 - ii. May charge the insured for services not covered under the health insurance policy; and
 - iii. May charge the insured the balance of any bill for services that are covered under the health insurance policy;
 - b. A schedule of all applicable charges for the services that the facility may provide to the insured;

- c. Any terms of payment that may apply to the insured; and
 - d. Whether interest will apply to, and the amount of interest that will be charged against, any payment owed by the insured to the facility;
 2. Submit claims associated with the benefits within ninety (90) days of the date of service;
 3. Maintain records of claims associated with the benefits;
 4. Respond to any inquiry regarding the benefits from an investigative unit established under KRS 304.47-080 or other similar unit; and
 5. Make a good-faith effort to abide by the standards of care set forth by the following, as applicable:
 - a. The American Society of Addiction Medicine;
 - b. The American Association for Community Psychiatry's Level of Care Utilization System (LOCUS); or
 - c. The American Association for Community Psychiatry's and the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Level of Care/Service Intensity Utilization System (CALOCUS-CASII).
- (3) For an assignment of benefits made in accordance with this section:
 - (a) The assignment shall:
 1. Be valid as of the effective date contained in the assignment; and
 2. Remain in effect until the earlier of the following:
 - a. The date the insured is discharged from the care of the substance abuse or mental health facility; or
 - b. The date the substance abuse or mental health facility receives written notice of the insured's termination of the assignment; and
 - (b) Upon notice of the assignment, the insurer shall make payments directly to the substance abuse or mental health facility for all services rendered by the facility to the insured for the duration of the assignment.
- (4) This section shall not be construed to:
 - (a) Provide a coverage or benefit that is not otherwise available under the health insurance policy;
 - (b) Prohibit an insurer from enforcing any terms or conditions of the health insurance policy that are not in conflict with this section;
 - (c) Relieve an insured from the contractual obligation to pay deductibles, copayments, or coinsurance;
 - (d) Permit a substance abuse or mental health facility to waive deductibles, copayments, or coinsurance by the notice of assignment; or
 - (e) Violate:
 1. 29 U.S.C. sec. 1185a, as amended; or
 2. KRS 304.17A-660 to 304.17A-669.

Effective: June 29, 2023

History: Created 2023 Ky. Acts ch. 86, sec. 1, effective June 29, 2023.

Legislative Research Commission Note (6/29/2023). This statute was created by 2023 Ky. Acts ch. 86, sec. 1. Section 8 of that Act provides that the Act applies to health insurance policies in effect on or after June 29, 2023, and to health insurance policies issued, delivered, or renewed on or after June 29, 2023.