

**304.18-082 Delivery of communications relating to insurance policy, certificate, plan, or contract by electronic means -- Employer consent -- Compliance requirements.**

- (1) As used in this section:
  - (a) "Communications" includes health insurance identification cards and other documents;
  - (b) "Covered person" means an individual that:
    1. Is an employer-sponsored group member or a dependent of an employer-sponsored group member; and
    2. Receives health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract;
  - (c) "Dependent of an employer-sponsored group member" or "dependents of an employer-sponsored group member" means an individual or individuals that are entitled to receive health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract solely due to a relationship to an employer-sponsored group member;
  - (d) "Employer" does not include a federal, state, or local government, including a:
    1. Federal, state, or local government entity, agency, or instrumentality; and
    2. Public school district or public institution of education;
  - (e) "Employer-sponsored group health insurance policy, certificate, plan, or contract" includes limited-scope dental or vision benefits offered by an employer under a separate insurance policy, certificate, plan, or contract;
  - (f) "Employer-sponsored group member" means an individual that is entitled to receive health benefits under an employer-sponsored group health insurance policy, certificate, plan, or contract as a member of the insured group; and
  - (g) "Insurer" has the same meaning as in KRS 304.17A-005, except for purposes of this section, the term does not include a self-insurer of a governmental plan.
- (2) Notwithstanding any other law, an insurer may deliver all communications relating to an employer-sponsored group health insurance policy, certificate, plan, or contract to a covered person by electronic means if:
  - (a) The employer consents to electronic delivery of communications on behalf of the covered person; and
  - (b) The insurer complies with subsection (4) of this section.
- (3) An employer may consent to the electronic delivery of communications under subsection (2) of this section if the employer confirms the following for the covered person:
  - (a) The covered person is:
    1. An employer-sponsored group member that routinely uses electronic communications during the normal course of employment or otherwise;or

2. A dependent of an employer-sponsored group member referenced in subparagraph 1. of this paragraph; and
- (b) Either:
1. If the covered person is an employer-sponsored group member, the covered person:
    - a. Was given an opportunity to opt out of delivery to the employer-sponsored group member and dependents of the employer-sponsored group member by electronic means; and
    - b. Will be given an opportunity to opt out of delivery to the employer-sponsored group member and dependents of the employer-sponsored group member by electronic means on an annual basis; or
  2. If the covered person is not an employer-sponsored group member, the covered person is a dependent of an employer-sponsored group member referenced in subparagraph 1. of this paragraph.
- (4) Insurers that provide electronic delivery of communications under this section shall:
- (a) Comply with the:
    1. Federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et seq.; and
    2. Uniform Electronic Transactions Act, KRS 369.101 to 369.120;
  - (b) Not take adverse action against a covered person because the person opts out, or is opted out, of electronic delivery of communications under this section; and
  - (c) Document compliance with this section.

**Effective:** July 15, 2024

**History:** Created 2024 Ky. Acts ch. 20, sec. 1, effective July 15, 2024.

**Legislative Research Commission Note** (7/15/2024). 2024 Ky. Acts ch. 20, sec. 2, provides that this statute shall apply to contracts entered or renewed on or after July 15, 2024.