

1 AN ACT relating to the payment of insurance claims for reimbursement of health
2 care services.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304
5 IS CREATED TO READ AS FOLLOWS:

6 *(1) As used in this section, "health care services" means health care procedures,*
7 *treatments, or services rendered by a health care provider within the scope of*
8 *practice for which the provider is licensed in Kentucky.*

9 *(2) For all contracts of insurance issued or renewed on or after the effective date of*
10 *this Act:*

11 *(a) All clean claims as defined in KRS 304.17A-700 shall be paid to a health*
12 *care provider within the claims payment time frame provided in KRS*
13 *304.17A-702;*

14 *(b) All loss claims for medical expense as defined in KRS 304.39-020, if the*
15 *charge is incurred for health care services, shall be paid to an insured*
16 *person or a health care provider within the time frame provided in*
17 *subsection (1) of Section 4 of this Act; and*

18 *(c) All other claims for reimbursement of health care services arising under the*
19 *terms of any contract of insurance shall be paid to an insured person or a*
20 *health care provider not more than thirty (30) days from the date upon*
21 *which notice and proof of claim, in the substance and form required by the*
22 *terms of the policy, are furnished to the insurer.*

23 *(3) If an insurer fails to settle or pay a claim in accordance with subsection (2) of*
24 *this section:*

25 *(a) The value of the final settlement or amount paid or owed by the insurer*
26 *shall bear interest at the following rates from and after expiration of the*
27 *time frame provided in subsection (2) of this section:*

- 1 **1. For clean claims referenced in subsection (2)(a) of this section:**
- 2 **a. The rates set forth in KRS 304.17A-706 or 304.17A-730, as**
- 3 **applicable, for any period that the insurer fails to pay, deny, or**
- 4 **settle the claim in accordance with those sections; and**
- 5 **b. The rate set forth in subparagraph 3. of this paragraph for any**
- 6 **period after a claim is denied;**
- 7 **2. For loss claims referenced in subsection (2)(b) of this section, the**
- 8 **rates set forth in subsection (2) of Section 4 of this Act; and**
- 9 **3. For all other claims referenced in subsection (2)(c) of this section, the**
- 10 **rate of twelve percent (12%) per annum; and**
- 11 **(b) The insurer shall be liable for any other damages suffered by an insured**
- 12 **person or a health care provider as a result of the delay in settlement or**
- 13 **payment, including any reasonable attorney's fees incurred. No part of the**
- 14 **attorney's fee for representing the claimant in connection with a claim shall**
- 15 **be charged against benefits otherwise due the claimant.**
- 16 **(4) The provisions of this section shall apply even if, prior to a final settlement,**
- 17 **payment, or determination that the claim shall be paid:**
- 18 **(a) There was a reasonable basis in law or fact to deny or delay payment of the**
- 19 **claim; or**
- 20 **(b) The insurer's coverage obligation for the claim was fairly debatable.**
- 21 ➔Section 2. KRS 304.12-235 is amended to read as follows:
- 22 (1) **Except as otherwise provided in Section 1 of this Act,** all claims arising under the
- 23 terms of any contract of insurance shall be paid to the named insured person or
- 24 health care provider not more than thirty (30) days from the date upon which notice
- 25 and proof of claim, in the substance and form required by the terms of the policy,
- 26 are furnished the insurer.
- 27 (2) If an insurer fails to make a good faith attempt to settle a claim within the time

1 prescribed in subsection (1) of this section, the value of the final settlement shall
 2 bear interest at the rate of twelve percent (12%) per annum from and after the
 3 expiration of the thirty (30) day period.

4 (3) If an insurer fails to settle a claim within the time prescribed in subsection (1) of
 5 this section and the delay was without reasonable foundation, the insured person or
 6 health care provider shall be entitled to be reimbursed for his reasonable attorney's
 7 fees incurred. No part of the fee for representing the claimant in connection with
 8 this claim shall be charged against benefits otherwise due the claimant.

9 ➔Section 3. KRS 304.39-241 is amended to read as follows:

10 **(1)** An insured may direct the payment of benefits among the different elements of loss,
 11 if the direction is provided in writing to the reparation obligor. A reparation obligor
 12 shall honor the written direction of benefits provided by an insured on a prospective
 13 basis. The insured may also explicitly direct the payment of benefits for related
 14 medical expenses already paid arising from a covered loss to reimburse:

15 **(a)**~~[(1)]~~ A health benefit plan as defined by KRS 304.17A-005~~[(22)]~~;

16 **(b)**~~[(2)]~~ A limited health service benefit plan as defined by KRS 304.17C-010;

17 **(c)**~~[(3)]~~ Medicaid;

18 **(d)**~~[(4)]~~ Medicare; or

19 **(e)**~~[(5)]~~ A Medicare supplement provider.

20 **(2)** **Notwithstanding subsection (1) of this section, an agreement by the insured to**
 21 **assign a right to benefits for medical expense provided or to be provided by the**
 22 **assignee, if the charge is for health care services as defined in Section 1 of this**
 23 **Act, shall be enforceable and valid.**

24 ➔Section 4. KRS 304.39-210 is amended to read as follows:

25 (1) Basic and added reparation benefits are payable monthly as loss accrues. Loss
 26 accrues not when injury occurs, but as work loss, replacement services loss, or
 27 medical expense is incurred. Benefits are overdue if not paid within thirty (30) days

1 after the reparation obligor receives reasonable proof of the fact and amount of loss
2 realized, unless the reparation obligor elects to accumulate claims for periods not
3 exceeding thirty-one (31) days after the reparation obligor receives reasonable proof
4 of the fact and amount of loss realized, and pays them within fifteen (15) days after
5 the period of accumulation. Notwithstanding any provision of this chapter to the
6 contrary, benefits are not overdue if a reparation obligor has not made payment to a
7 provider of services due to the request of a secured person when the secured person
8 is directing the payment of benefits among the different elements of loss. If
9 reasonable proof is supplied as to only part of a claim, and the part totals one
10 hundred dollars (\$100) or more, the part is overdue if not paid within the time
11 provided by this section. Medical expense benefits may be paid by the reparation
12 obligor directly to persons supplying products, services, or accommodations to the
13 claimant, if the claimant so designates.

14 (2) Overdue payments bear interest at the rate of twelve percent (12%) per annum,
15 except that if delay was without reasonable foundation the rate of interest shall be
16 eighteen percent (18%) per annum.

17 (3) A claim for basic or added reparation benefits shall be paid without deduction for
18 the benefits which are to be subtracted pursuant to the provisions on calculation of
19 net loss if these benefits have not been paid to the claimant before the reparation
20 benefits are overdue or the claim is paid. The reparation obligor is entitled to
21 reimbursement from the person obligated to make the payments or from the
22 claimant who actually receives the payments.

23 (4) A reparation obligor may bring an action to recover benefits which are not payable,
24 but are in fact paid, because of an intentional misrepresentation of a material fact,
25 upon which the reparation obligor relies, by the insured or by a person providing an
26 item of medical expense. The action may be brought only against the person
27 providing the item of medical expense, unless the insured has intentionally

1 misrepresented the facts or knows of the misrepresentation. An insurer may offset
2 amounts he is entitled to recover from the insured under this subsection against any
3 basic or added reparation benefits otherwise due.

4 (5) A reparation obligor who rejects a claim for basic reparation benefits shall give to
5 the claimant prompt written notice of the rejection, specifying the reason. If a claim
6 is rejected for a reason other than that the person is not entitled to the basic
7 reparation benefits claimed, the written notice shall inform the claimant that he may
8 file his claim with the assigned claims bureau and shall give the name and address
9 of the bureau.

10 **(6) A reparation obligor shall be subject to the provisions set forth in Section 1 of**
11 **this Act.**

12 ➔Section 5. This Act takes effect on January 1, 2019.