

ASSEMBLY, No. 3530

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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District 7 (Burlington)

SYNOPSIS

Concerns confidentiality of certain communications from health insurance carriers.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the confidentiality of certain health insurance
2 communications and supplementing P.L.1997, c.192 (C.26:2S-1
3 et al.).

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. a. (1) As used in this section, “sensitive services” means
9 health care services related to sexual assault, pregnancy, family
10 planning, sexually transmitted diseases, domestic violence and
11 substance or alcohol abuse.

12 (2) For the purposes of this section, “carrier,” as defined in
13 P.L.1997, c.192 (C.26:2S-1 et al.), shall also include the State
14 Health Benefits Program and the School Employees’ Health
15 Benefits Program.

16 b. Any communication from a carrier to a covered person
17 which relates to sensitive services shall be provided using an
18 alternative method of delivery, as designated by the covered person,
19 upon that covered person’s written request.

20 c. A communication is related to sensitive services for the
21 purposes of this section if the communication discloses protected
22 health information, including information regarding treatment or
23 diagnosis, or the name or address of a provider of sensitive services,
24 or if disclosure of all or part of the protected health information
25 could endanger the covered person.

26 d. Alternative methods for delivery of communications related
27 to sensitive services shall include, but not be limited to, the
28 following:

29 (1) a paper form sent to the address of the covered person to
30 whom the sensitive service pertains;

31 (2) a paper form sent to any alternate address designated by the
32 covered person to whom the sensitive service pertains; or

33 (3) allowing only the covered person to whom the sensitive
34 service pertains to access the communication through electronic
35 means, as available, provided that such access is granted in
36 compliance with any applicable State and federal laws and
37 regulations pertaining to data security.

38 e. The right to request an alternative method of delivery of
39 communications related to sensitive services, and the process to
40 make such a request, shall be communicated in plain language and
41 in a clear and conspicuous manner in coverage documents and
42 member privacy communications, and shall be conspicuously
43 displayed on the carrier’s website and online portals for covered
44 persons.

45 f. A carrier shall not require an explanation as to the basis for a
46 covered person’s request pursuant to this section, unless otherwise
47 required by law or court order.

1 g. A carrier shall not condition enrollment or coverage on the
2 waiver of rights provided in this section.

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4 2. This act shall take effect on the 120th day next following
5 enactment.

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STATEMENT

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10 This bill supplements the “Health Care Quality Act,” P.L.1997,
11 c.192 (C.26:2S-1 et al.) by requiring health insurance carriers to
12 honor a request by a covered person for an alternative means of
13 delivery for confidential communications related to sensitive
14 services.

15 The enactment of the federal “Patient Protection and Affordable
16 Care Act,” (ACA) expanded the opportunity for many individuals to
17 maintain health insurance as dependents on a policy held in
18 someone else’s name. Under the ACA, children of policyholders
19 may remain on the policy as dependents until they reach the age of
20 26. In certain cases, coverage for dependents may be extended even
21 further by New Jersey law. As the duration of coverage for
22 dependents increases, so too do concerns for the privacy of these
23 dependents.

24 Current federal and State laws require carriers to provide
25 policyholders with documentation of the benefits rendered for all
26 persons covered under the policy. As a result, many dependents
27 find themselves having to make a difficult choice between getting
28 the medical treatment they need, and keeping their health
29 information private. This is especially problematic when a
30 dependent has been victimized in some manner by a policyholder,
31 as the dependent may fear for their safety if the policyholder
32 discovers that the dependent sought medical treatment. This bill
33 protects all covered dependents’ confidential health information
34 related to sensitive services from being released to policyholders
35 against the wishes of the dependent.

36 Under this bill, all covered persons are empowered to request
37 that confidential communications from a carrier pertaining to
38 sensitive services be received in a manner of their choosing.
39 “Sensitive services” are defined as health care services related to
40 sexual assault, pregnancy, family planning, sexually transmitted
41 diseases, domestic violence and substance or alcohol abuse. A
42 communication is considered related to sensitive services if the
43 communication discloses protected health information, including
44 information regarding treatment or diagnosis, or the name or
45 address of the provider of sensitive services, or if disclosure of all
46 or part of the protected health information could endanger the
47 covered person.

1 This bill also protects covered persons by prohibiting a carrier
2 from demanding an explanation for the covered person's request
3 pursuant to this bill, and from conditioning enrollment or coverage
4 on the waiver of rights granted by this bill.

5 Finally, a carrier is required to communicate the rights
6 established by this bill and the procedure to have these rights
7 recognized in plain language and in a clear and conspicuous manner
8 in coverage documents and member privacy communications, and
9 to conspicuously display this information on the carrier's website
10 and online portals for covered persons.