

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2699

By Committee on Insurance and Financial Institutions

1-29

10 AN ACT concerning insurance; relating to time limits in which insurers  
11 can recoup certain erroneously made payments; amending K.S.A. 40-  
12 2442 and K.S.A. 2007 Supp. 40-2228h and repealing the existing sec-  
13 tions section.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 ~~Section 1. K.S.A. 2007 Supp. 40-2228h is hereby amended to read~~  
17 ~~as follows: 40-2228h. (a) Within 30 days after receipt of any claim, and~~  
18 ~~amendments thereto, any insurer issuing a policy of long-term care in-~~  
19 ~~surance shall pay a clean claim for reimbursement in accordance with this~~  
20 ~~section or send a written or electronic notice acknowledging receipt of~~  
21 ~~and the status of the claim. Such notice shall include the date such claim~~  
22 ~~was received by the insurer and state that:~~

23 ~~—(1) The insurer refuses to reimburse all or part of the claim and spec-~~  
24 ~~ify each reason for denial; or~~

25 ~~—(2) additional information is necessary to determine if all or any part~~  
26 ~~of the claim will be reimbursed and what specific additional information~~  
27 ~~is necessary.~~

28 ~~—(b) If any insurer issuing a policy of long-term care insurance fails to~~  
29 ~~comply with subsection (a), such insurer shall pay interest at the rate of~~  
30 ~~1% per month on the amount of the claim that remains unpaid 30 days~~  
31 ~~after the receipt of the claim. The interest paid pursuant to this subsection~~  
32 ~~shall be included in any late reimbursement without requiring the person~~  
33 ~~who filed the original claim to make any additional claim for such interest.~~

34 ~~—(c) After receiving a request for additional information, the person~~  
35 ~~claiming reimbursement shall submit all additional information requested~~  
36 ~~by the insurer within 30 days after receipt of the request for additional~~  
37 ~~information. Failure to furnish such additional information within the~~  
38 ~~time required shall not invalidate nor reduce the claim if it was not rea-~~  
39 ~~sonably possible to give such information within such time, provided such~~  
40 ~~proof is furnished as soon as possible as defined (within the time pre-~~  
41 ~~scribed) in paragraph (7) of subsection (A) of K.S.A. 40-2203, and amend-~~  
42 ~~ments thereto.~~

43 ~~—(d) Within 30 days after receipt of all the requested additional infor-~~

1 ~~mation, an insurer issuing a policy of long-term care insurance shall pay~~  
2 ~~a clean claim in accordance with this section or send a written or elec-~~  
3 ~~tronic notice that states:~~

4 ~~—(1) Such insurer refuses to reimburse all or part of the claim; and~~  
5 ~~—(2) specifies each reason for denial. Any insurer issuing a policy of~~  
6 ~~long-term care insurance that fails to comply with this subsection shall~~  
7 ~~pay interest on any amount of the claim that remains unpaid at the rate~~  
8 ~~of 1% per month.~~

9 ~~—(c) The provisions of subsection (b) shall not apply when there is a~~  
10 ~~good faith dispute about the legitimacy of the claim, or when there is a~~  
11 ~~reasonable basis supported by specific information that such claim was~~  
12 ~~submitted fraudulently.~~

13 ~~—(f) In the event that an insurer erroneously pays a claim providing~~  
14 ~~benefits to which the insured person or provider is not entitled, the insurer~~  
15 ~~shall not initiate a request for reimbursement or refund of that erroneous~~  
16 ~~payment, or in any other way seek to recoup the erroneous payment,~~  
17 ~~unless such action is initiated within 15 months after the end of the month~~  
18 ~~in which the erroneous payment was made.~~

19 ~~—(f) (g) Any violation of this act by an insurer issuing a policy of long-~~  
20 ~~term care insurance with flagrant and conscious disregard of the provi-~~  
21 ~~sions of this act or with such frequency as to constitute a general business~~  
22 ~~practice shall be considered a violation of the unfair trade practices act~~  
23 ~~in K.S.A. 40-2401 et seq. and amendments thereto.~~

24 ~~—(g) (h) The commissioner of insurance shall adopt rules and regula-~~  
25 ~~tions necessary to carry out the provisions of the Kansas long-term care~~  
26 ~~insurance prompt payment act.~~

27 ~~Sec. 2: 1.~~ K.S.A. 40-2442 is hereby amended to read as follows: 40-  
28 2442. (a) Within 30 days after receipt of any claim, and amendments  
29 thereto, any insurer issuing a policy of accident and sickness insurance  
30 shall pay a clean claim for reimbursement in accordance with this section  
31 or send a written or electronic notice acknowledging receipt of and the  
32 status of the claim. Such notice shall include the date such claim was  
33 received by the insurer and state that:

34 (1) The insurer refuses to reimburse all or part of the claim and spec-  
35 ify each reason for denial; or

36 (2) additional information is necessary to determine if all or any part  
37 of the claim will be reimbursed and what specific additional information  
38 is necessary.

39 (b) If any insurer issuing a policy of accident and sickness insurance  
40 fails to comply with subsection (a), such insurer shall pay interest at the  
41 rate of 1% per month on the amount of the claim that remains unpaid  
42 30 days after the receipt of the claim. The interest paid pursuant to this  
43 subsection shall be included in any late reimbursement without requiring

1 the person who filed the original claim to make any additional claim for  
2 such interest.

3 (c) After receiving a request for additional information, the person  
4 claiming reimbursement shall submit all additional information requested  
5 by the insurer within 30 days after receipt of the request for additional  
6 information. Failure to furnish such additional information within the  
7 time required shall not invalidate nor reduce the claim if it was not rea-  
8 sonably possible to give such information within such time, provided such  
9 proof is furnished as soon as possible as defined (within the time pre-  
10 scribed) in paragraph (7) of subsection (A) of K.S.A. 40-2203, and amend-  
11 ments thereto.

12 (d) Within 15 days after receipt of all the requested additional infor-  
13 mation, an insurer issuing a policy of accident and sickness insurance shall  
14 pay a clean claim in accordance with this section or send a written or  
15 electronic notice that states:

16 (1) Such insurer refuses to reimburse all or part of the claim; and  
17 (2) specifies each reason for denial. Any insurer issuing a policy of  
18 accident and sickness insurance that fails to comply with this subsection  
19 shall pay interest on any amount of the claim that remains unpaid at the  
20 rate of 1% per month.

21 (e) The provisions of subsection (b) shall not apply when there is a  
22 good faith dispute about the legitimacy of the claim, or when there is a  
23 reasonable basis supported by specific information that such claim was  
24 submitted fraudulently.

25 (f) *In the event that an insurer erroneously pays a claim providing*  
26 *benefits to which the insured person or provider is not entitled, the insurer*  
27 *shall not initiate a request for reimbursement or refund of that erroneous*  
28 *payment, or in any other way seek to recoup the erroneous payment,*  
29 *unless such action is initiated within ~~15~~ 18 months after the end of the*  
30 *month in which the erroneous payment was made. **In cases of fraud by***  
31 **the insured person or provider, such action may be initiated within**  
32 **the applicable statute of limitations pursuant to K.S.A. 60-513, and**  
33 **amendments thereto.**

34 ~~(f)~~ (g) Any violation of this act by an insurer issuing a policy of acci-  
35 dent and sickness insurance with flagrant and conscious disregard of the  
36 provisions of this act or with such frequency as to constitute a general  
37 business practice shall be considered a violation of the unfair trade prac-  
38 tices act in K.S.A. 40-2401 et seq. and amendments thereto.

39 ~~(g)~~ (h) The commissioner of insurance shall adopt rules and regula-  
40 tions necessary to carry out the provisions of the Kansas health care  
41 prompt payment act.

42 Sec. ~~3~~ **2**. K.S.A. 40-2442 and K.S.A. 2007 Supp. 40-2228h are is  
43 hereby repealed.

1     Sec. ~~4~~ **3**. This act shall take effect and be in force from and after its  
2     publication in the statute book.