

Approved 2-25-87  
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Dale M. Sprague at  
Chairperson

3:30 ~~xx~~ a.m./p.m. on February 23, 1987 in room 531-N of the Capitol.

All members were present except:  
Rep. Littlejohn, excused

Committee staff present:  
Emalene Correll, Chris Courtwright, Research Department  
Gordon Self, Revisor's Office  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order by the Chairman.

Discussion and final action on: HB 2090 - notice of termination and premium due on medicare supplement policies

Staff presented a memo to clarify issues previously raised by the committee (Att. 1.)

A committee member said that if the object is to have proof the insurance company sent a notice, the certificate of mailing could be used. Dates of mailings are logged at the post office. Further, it is possible to certify mail with a postage meter rather than it requiring a trip to the post office.

Staff verified for the Chairman that the committee amendment to the bill would make it apply only to Medicare supplements, as its sponsors intended. Guardians, etc. would be included in the bill to receive certified notices. Back premiums would have to be picked up, and specific language would take precedence over general language in K.S.A. 40-2203(A)(4) regarding reinstatement of accident and health insurance. It is illegal to date mail ahead using a postage meter; it must go to the post office the date it is stamped.

There was discussion of the ways in which certified mail could be a detriment in receiving mail; it is only brought to the address once, then addressee must pick up at the post office. Also, as it requires individual handling, it can be slower than regular mail.

Rep. Neufeld presented a balloon which would substitute a conspicuous notice on the envelope for the certified mailing requirement. (Att. 2.)

Rep. Neufeld made a motion that the balloon amendment be adopted; Rep. Harper seconded the motion.

Per Mr. Dick Brock, there would need to be specific language giving the Commissioner authority to adopt regulations regarding the wording on the envelope.

A committee member suggested that the 30-day grace period be run and then the 15 days be allowed as "one more chance." He suggested that more effective language might be "insurance has

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 531-N, Statehouse, at 3:30 XX a.m./p.m. on February 23, 1987

lapsed." He stated that as the failure to pay the premium could have a significant economic impact, the certified method could be used for a year or two to determine costs and benefits.

Other comments were that the notice on the envelope negates the purpose of the bill and that insurance companies already use the envelope for notices.

The motion failed.

Rep. Brady made a motion that rather than requiring payment 15 days from the date of the insurer's notice that the date of the postmark on the payment must be within the 15 days; Rep. Brown seconded the motion.

This was to allow for payments delayed in the mail; however, others pointed out that the envelope might not be available--or payment might be lost entirely. Also, business return envelopes would not utilize a postmark.

Rep. Sawyer offered a substitute motion that "insurer's" on Line 38 be changed to "insured" and that "mailed" on Line 39 be changed to "received." Rep. Bryant seconded the motion.

It was pointed out by staff that the insurer could not specify an amount needed to reinstate the policy if there isn't a definite date on which it is due back.

The motion failed.

Rep. King made a motion that HB 2090 be recommended favorably as amended; Rep. Brown seconded the motion. The motion carried.

The Chairman announced that the committee discussion on HB 2147 would be February 24.

The meeting was adjourned at 4:30 p.m.



MEMORANDUM

February 13, 1987

TO: House Committee on Insurance  
FROM: Kansas Legislative Research Department  
RE: Background Information on Issues Raised by H.B. 2090

At the request of the Committee, this memorandum has been prepared to clarify the following issues surrounding H.B. 2090, a bill that, as written, would require insurance companies attempting to cancel Medicare supplement policies on the basis of nonpayment of premiums to notify persons age 65 or over by certified mail within 45 days following the date which the premiums were due. Payment of the premium by the insured within 15 days of the date such notification is mailed would automatically continue the coverage without lapse.

House Committee Amendment

On February 12, 1987, the bill was amended by striking everything following the comma on line 23 through the comma on line 27. Opponents had testified that administrative costs could be incurred and passed on to consumers if policies issued to persons age 65 or over had to be disaggregated from all policies issued. They further argued that language on lines 25 and 26 could make the bill apply to all accident and sickness policies, not just Medicare supplement policies. The amendment effectively eliminates these objections, making the bill apply only to all Medicare supplement policies, regardless of the age of the insured.

Contract Billed to Guardian, Conservator,  
or Trustee of Insured

Section 2(b) states that the provisions of the act would not apply to contracts billed to other than the insured or a guardian, conservator, or trustee of the insured. In other words, all requirements of the bill would still apply for those contracts billed to guardians, conservators, or trustees.

Costs

According to the U.S. Postal Service, the cost of sending a letter by certified mail is as follows:

\$ .75 for certification  
.70 for return acknowledged receipt  
.22 for first ounce of postage  
\$1.67 to send a one ounce letter

House Insurance Committee  
Feb. 23, 1987  
Att. 1

Opponents testified that the additional postage costs incurred for those policies that required certified-mail notification would be passed on ultimately to the consumers. Proponents argued that they would be willing to accept the slight increase in their premiums in exchange for the additional protections provided by the bill against cancellations of Medicare supplement policies. Some opponents further argued, however, that other labor and administrative costs associated with processing and getting mail certified at post offices would be passed on to consumers.

#### Premium Due for Period of Time Between Expiration and Automatic Reinstatement

One opponent testified that language in the bill regarding the certified-mail billing, in conjunction with language about the automatic reinstatement without lapse upon payment of premium, might prevent insurance companies from collecting any premiums due for insuring the interim period between expiration and reinstatement. Section 1 requires that the certified-mail billing "shall inform the insured of the amount of premium that would be required to reinstate the policy." According to the Revisor of Statutes and the Department, there is no reason that the amount of premium required to reinstate the policy could not include an amount for coverage during the interim period.

#### Conformity to Existing Reinstatement Requirement

Some opponents further indicated that passage of the bill could put the automatic reinstatement provision in conflict with an existing reinstatement provision requiring a ten-day waiting period. Such a requirement can be found in K.S.A. 40-2203(A)(4), the uniform policy provisions for reinstatement of accident and health insurance. However, the Revisor and the Department both indicate that the specificity of the bill regarding certain policies would probably supersede the general provisions of this statute. Also, K.S.A. 40-2203(C) requires that "if any provision of this section is in whole or in part inapplicable to or inconsistent with coverage provided by a particular form of policy the insurer, with the approval of the commissioner of insurance, shall . . . modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided . . . ."

#### Certified Mail

Certified mail must be certified at and sent from a post office, according to the U.S. Postal Service. The certified mail itself has no priority over first class mail, and records regarding the certified mail are kept only at the point-of-destination post office. Carriers attempt to deliver certified mail to the addressee and obtain the signature on the receipt-acknowledged slip only once. If the carrier fails to obtain the required signature, notice of the certified mail is left at the residence of the addressee. The addressee has 15 days from this date to pick up the

certified mail and sign for it at the post office. After this 15-day period has expired, the certified mail is then sent back to the sender via first class.

One possible problem with H.B. 2090 is that the insured must have paid the insurer within 15 days of the date the insurer mailed the certified letter in order to qualify for automatic reinstatement. An insured desiring to be reinstated could still receive the certified mail and not be able to respond within 15 days of the date the insurer mailed the notification. To the extent that proponents of the bill think that people receiving the certified mail would have adequate time to respond, this could be a problem.

Various Kansas statutes require one party, under certain circumstances, to notify another party of an impending action by certified mail or registered mail. Although neither "certified mail" nor "registered mail" are defined explicitly by the statutes, K.S.A. 77-203 provides that certified mail may be used in lieu of registered mail when specific statutes require the use of registered mail. Registered mail is simply certified mail that is also insured up to the value of the contents, according to the U.S. Postal Service. The additional cost of registered mail over certified mail corresponds to the amount of insurance purchased on the contents.

#### Exceptions Provided by H.B. 2090

Besides contracts billed to persons other than the insured or a guardian, conservator, or trustee of the insured, the bill would exempt from its provisions those contracts billed on a preauthorized check or bank-draft basis. The bill's provisions would also not apply to those insurers who provide proper notice under the bill more than twice in 12 months.

#### Alternative Suggestions

Opponents argued that since their companies currently send Medicare supplement policy renewal notices both before and after policy expiration dates, the bill would do nothing more than increase mailing and administration costs while providing no better safeguards to the consumers. Some conferees suggested that the bill be amended to remove the certified-mail provision and instead require that notices sent pursuant to the bill be enclosed in envelopes stamped with language indicating that a premium notice was enclosed, subject to the approval of the Commissioner.

F87-50/CC

HOUSE BILL No. 2090

By Representatives Ramirez, Chronister, Eckert, Graeber,  
Jenkins and Reardon

1-23

0017 AN ACT concerning insurance; relating to medicare supplement  
0018 policies; notice of termination and premium due; amending  
0019 K.S.A. 40-19c09 and repealing the existing section.

0020 Be it enacted by the Legislature of the State of Kansas:  
0021 New Section 1. Except as otherwise provided in this act, no  
0022 medicare supplement policy of insurance, as defined by the  
0023 commissioner of insurance by rule and regulation, and no insur-  
0024 ance contract insuring a person age 65 or over and providing  
0025 benefits for hospital, medical or surgical services or benefits for  
0026 accident or sickness other than by reason of the insured's dis-  
0027 ability, issued or delivered in this state shall be terminated for  
0028 failure to pay premiums when due unless the insurer sends to  
0029 the insured ~~by certified mail and~~ addressed to the insured's last  
0030 address of record with such insurer, ~~a notice~~ indicating the  
0031 policy terminated due to failure to pay the required premium as  
0032 of the premium due date. Such notice shall be sent no later than  
0033 45 days following the date on which premium was due, and shall  
0034 inform the insured of the amount of premium that would be  
0035 required to reinstate the policy and of the time within which  
0036 such premium must be remitted to the insurer to effect such  
0037 reinstatement. Upon payment of the required premium by the  
0038 insured to the insurer within 15 days of the insurer's having  
0039 mailed such notice, the policy shall be automatically reinstated  
0040 as continuous coverage without lapse by the insurer without  
0041 imposing upon the insured any new exclusions, reductions or  
0042 waiting periods and without requiring of the insured proof of  
0043 insurability.

0044 New Sec. 2. (a) The provisions of this act shall apply to

a notice

Such notice shall be enclosed in an envelope on which the following language appears in a conspicuous place on the front of the envelope and in bold-face type: IMPORTANT --- PREMIUM RENEWAL NOTICE ENCLOSED.

0045 health maintenance organizations organized under article 32 of  
0046 chapter 40 of the Kansas Statutes Annotated.

0047 (b) The provisions of this act shall not apply to: (1) An  
0048 insurance contract which is billed for by the insurer to other than  
0049 the insured or a guardian, conservator or trustee of the insured;

0050 (2) an insurance contract billed for by the insurer to the  
0051 insured on a preauthorized check or bank draft basis; and

0052 (3) an insurance contract for which the insurer has sent the  
0053 proper notice as provided under this act more than twice in the  
0054 preceding 12 months.

0055 Sec. 3. K.S.A. 40-19c09 is hereby amended to read as fol-  
0056 lows: 40-19c09. Corporations organized under the nonprofit  
0057 medical and hospital service corporation act shall be subject to  
0058 the provisions of the Kansas general corporation code, articles 60  
0059 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated,  
0060 applicable to nonprofit corporations, to the provisions of sections  
0061 2 and 3 of this act, to the provisions of K.S.A. 40-2,116 and  
0062 40-2,117 and to the provisions of K.S.A. 40-214, 40-215, 40-216,  
0063 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229,  
0064 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249,  
0065 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-  
0066 2,102, 40-2,103, 40-2,104, 40-2,105, 40-2a01 to 40-2a19, inclusive, 40-2111  
0067 to 40-2116, inclusive, 40-2216 to 40-2220, inclusive, 40-2401 to  
0068 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, and  
0069 amendments thereto, except as the context otherwise requires,  
0070 and shall not be subject to any other provisions of the insurance  
0071 code except as expressly provided in this act.

0072 Sec. 4. K.S.A. 40-19c09 is hereby repealed.

0073 Sec. 5. This act shall take effect and be in force from and  
0074 after its publication in the statute book.