

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 24, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department

Conferees appearing before the committee:

John Meetz, Kansas Insurance Dept.
Dan Morin, Kansas Medical Society
Dave Hanson, PCI Assn.
April Holman, Kansas Action for Children (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Informational Hearing on

H Sub 273 - Relating to child support enforcement; concerning payments under certain insurance policies

The Chair asked Melissa Calderwood for an overview of the bill. Ms. Calderwood stated the substitute bill deletes the contents of SB 273 and inserts the provisions of HB 2904 as it was amended by the House Committee and then further amended by House Committee when the substitute was adopted. The substitute bill relates to the issue of creating matching information about child support debtors against any information known about liability against the claimant. The original bill as it left the committee last year would have amended the Kansas Health Care Prompt Payment Act to include dental claims. Those provisions did pass in another bill, SB 271. The bill enters into the business arrangement with any organization that provides matching information about child support debtors. It has provisions applying to the secretary of SRS. The secretary will be allowed to disclose any information about individuals who owe past due child support in a Title IV-D case if the debtor owes at least \$25. The secretary also would be required, to the extent it is feasible, to require or provide secure electronic processes for disclosing information about support debtors to the matching entity and for any insurance companies disclosing information about claimants to such matching entity. The secretary is given authority to adopt rules and regulations as may be necessary to administer the provisions of the bill. The insurance companies who provide liability coverage would be required to disclose information about a claimant, as instructed by the Secretary, if the claimant's aggregate claim totals \$1,000 or more. The insurer is permitted under the bill to disclose information, at the insurer's discretion, about its claimants who have a claim that totals less than \$1,000.

Representative Anthony Brown testified in support of H Sub 273. He said Kansas collects only 54 cents of every dollar in child support so that means 46 cents of every dollar in Kansas goes uncollected. He said that provides a huge burden not only to the state, but also the single parent. He said it is also known that parents who are current on their child support are also eighty percent more likely to be involved in that child's life. He added that we all know how important it is to have both parents involved in the child's life in today's society. He noted SRS said they would need to upgrade some computer software to interface with a third party. He said SRS would be allowed to contract with a third party vendor and a the third party vendor would help match insurance claims and delinquent parents. He noted the insurance industry already has a contract with ISO. He said ISO is a separate entity from an insurance company who provides screening of claimants. He said SRS will gain necessary information through a third party to pursue delinquent child support. He said again, this simply allows SRS a contract with a third party vendor and the third party vendor helps match the

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 24, 2008 in Room 136-N of the Capitol.

insurance claim to the parents and the SRS would then gain information to go after that delinquent parent. (Attachment 1)

Dave Hanson, PCI Association of America, a national trade association, appeared as neutral on H Sub 273. Mr. Hanson said PCI members do not want to stand in the way of this important piece of legislation. He said they are happy to participate in the program as many of our member companies do in several states already, but they feel some clarifications are needed in the Bill before it becomes law. He said the language in SB 273 is somewhat confusing regarding what claims are subject to data matching. "Claimant" is broadly defined as someone who has submitted a claim under a liability insurance contract. He said they believe the language should be more specific and could be clarified to say that a claimant is any individual who has submitted a claim for bodily injury or wrongful death under a liability insurance policy or a claim for workers' compensation as shown in the attached balloon amendments. He continued, stating further adding to the confusion is language that delineates which claimants an insurer must disclose information on. The bill requires disclosure if the claimant's aggregate claim totals \$1,000 or more. He said while his client does not think the intent of the bill or SRS is to force insurers to report every liability claim over \$1,000 to the state, Section 2©, could easily be read to mean exactly that. (Attachment 2)

The Chair closed the informational hearing on H Sub 273.

Informational hearing on

H Sub 113 - relating to insurance; concerning recoupment of certain erroneously made payments; relating to the accrual of dividends and interest for certain policies

Melissa Calderwood gave an overview of H Sub 113. She stated the House Committee on Insurance and Financial Institutions recommended the introduction of a substitute bill. The substitute deletes the contents of SB 113 and inserts the provisions of HB 2690 and HB 2699 as amended by the House Committee. She said the original bill would have amended the continuing education requirements of certain licensed insurance agents. She said the fiscal note indicated there will be no fiscal effect to the agency associated with the enactment of either provision.

John Meetz, Kansas Insurance Department, testified in support of H Sub 113. He said this bill now does two things. First, the bill would clarify that life insurance companies are required to pay accrued interest and dividends on surrendered life insurance policies during the deferral period if such companies elect to defer payment of the surrender value for a period not to exceed six months. He said currently, when a policyholder surrenders a life insurance policy for its cash value, the insurance company is not required to pay the value until six months after the request for surrender. He said the Insurance Department does not have a problem with the current six month deferral as this provides the insurance company time to evaluate and sell assets in order to meet the surrender value obligation. He noted this is a consumer friendly measure that makes sure policyholders receive their full benefit.

He said the second portion of the bill affects the Kansas prompt-pay law. He said when an insurance company makes a payment to a provider that is in error, they currently have the ability to recoup that payment at any time within five years. This practice causes serious problems for providers, especially as it pertains to their taxes and financial planning. (Attachment 3)

Dan Morin, Director of Government Affairs, Kansas Medical Society, also testified in support of H Sub 113. Mr. Morin said currently, it is possible for a Kansas physician to be continually exposed to refund for every insurance payment on every claim paid. He said H Sub for SB 113 addresses the need for closure on the issue of payments. He said frequently, overpayments are the result of minor clerical errors made in the billing office, such as the transposition of billing code numbers, and involve only nominal amounts. He noted, however, that overpayments are the result of systematic billing errors, such as the repeated use of an incorrect billing code or improper application of insurance coverage prerequisites. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 24, 2008 in Room 136-N of the Capitol.

The Chair closed the informational hearing on H Sub 113.

The Chair asked for approval of the Minutes of March 13, 18, 19 and 20. Senator Steineger moved approval. Senator Barone seconded. Motion passed.

The meeting adjourned at 10:20 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 3-24-08

NAME	REPRESENTING
John Reek	KID
Jim Weich	KID
DAN MORIN	KS Medical Society
Alex Koteyantz	P.I.A.
Bill Sward	State Farm
David Hanson	KS Insur Assns / PCI

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: FINANCIAL INSTITUTIONS
MEMBER: FEDERAL AND STATE AFFAIRS
TAXATION

SB 273

Background:

Worked with Insurance Industry Starting last Spring
Worked with SRS
Started very broad with Life Ins., Work Comp. Narrowed through
discussion and committee work
Brad Smoot actually provided good contacts and network

SB 273

Allows SRS to contract with third party vendor
Third party vendor helps match insurance claims and delinquent parent
Insurance industry already contract with ISO
ISO separate entity from insurance company that provide screening
of claimants. Provide other services as well but all necessary
information about claimant is already provided.
SRS will gain necessary information through third party to pursue
delinquent child support

Costs to the State

Roughly under \$20,000 for IT support in SRS
SRS would pay only for matches in the service
SRS would recover and ESTIMATED **\$70,000** annually in Title-IV D
cases
Kansas families would have an additional **\$700,000 annually**

*FI & I Committee
March 24, 2008
Attachment 1*

DAVID A. HANSON
Legislative Counsel
800 SW Jackson – Suite 900
Topeka, Kansas 66612
785-232-0545

Testimony on H Sub. for SB 273
March 24, 2008

TO: Senate Financial Institutions and Insurance Committee

RE: H Sub. for SB 273

Madam Chair and Members of the Committee:

Thank you for this opportunity to present information to the Committee on behalf of PCI, the Property Casualty Insurers Association of America, which has over 1,000 member insurance companies in the U.S., and whose member companies have a significant business presence in Kansas, writing over 40% of the property-casualty premiums in Kansas.

Our member companies have several questions and concerns regarding the child support enforcement provisions in H Sub. For SB 273. Please understand, our members are not wanting to stand in the way of this important piece of legislation. We are happy to participate in the program as many of our member companies do in several states already, but we feel that some clarifications are needed in the Bill before it becomes law.

The language in SB 273 is somewhat confusing regarding what claims are subject to data matching. "Claimant" is broadly defined as someone "who has submitted a claim under a liability insurance contract." We believe the language should be more specific and could be clarified to say that a "Claimant is any individual who has submitted a claim for bodily injury or wrongful death under a liability insurance policy or a claim for workers' compensation" as shown in the attached balloon amendments.

Further adding to the confusion is language that delineates which claimants an insurer must disclose information on. The bill requires disclosure "if the claimant's aggregate claim totals \$1,000 or more." Does this include all of the property damage and medical bills in the claim or is it limited to the liability or indemnity portion of the claim? We think it means the later, but use of the term 'aggregate claim' adds more confusion than clarity.

While we do not think the intent of this bill, or of SRS, is to force insurers to report every liability claim over \$1,000 to the State, Section 2 (c), could easily be read to mean exactly that. This language should be amended to limit disclosure to a claimant as identified and requested by the secretary through the data match procedures and whose total claim exceeds \$1,000.

FI&I Committee
March 24, 2008
Attachment 2

Lastly, we would request an amendment to clarify that insurers should not be charged a fee for providing information or otherwise participating in this program. We believe these proposed amendments will help clarify the provisions of the Bill and allow more effective application.

Respectfully,



DAVID A. HANSON

[As Amended by House Committee of the Whole]

Session of 2008

HOUSE Substitute for SENATE BILL No. 273

By Committee on Insurance and Financial Institutions

3-7

10 AN ACT relating to child support enforcement; concerning payments
11 under certain insurance policies; amending K.S.A. 39-759 and repeal-
12 ing the existing section.
13

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

15 New Section 1. (a) The secretary of social and rehabilitation services
16 is authorized to enter into an agreement with any entity that engages in
17 the business of matching information about child support debtors against
18 information about insurance claimants. Any such agreement shall be sub-
19 ject to the provisions of K.S.A. 39-759, and amendments thereto, con-
20 cerning confidential information. If the entity is a consortium or similar
21 joint venture of two or more states, or if the entity is an agency of the
22 United States, the requirements of K.S.A. 75-5365, and amendments
23 thereto, shall not apply.

24 (b) Pursuant to an agreement made under subsection (a), the secre-
25 tary of social and rehabilitation services may disclose information about
26 any individual who owes past due support in a title IV-D case if the
27 support debtor owes at least \$25 in past due support. "Title IV-D" means
28 part D of title IV of the federal social security act (42 U.S.C. §651 et seq.).

29 (c) To the extent feasible, the secretary of social and rehabilitation
30 services shall require or provide secure electronic processes for disclosing
31 information about support debtors to any entity conducting matches pur-
32 suant to this section and for any insurers disclosing information about
33 claimants to such an entity.

34 (d) The secretary of social and rehabilitation services shall have the
35 authority to adopt such rules and regulations as may be necessary to ad-
36 minister the provisions of this act.

37 New Sec. 2. (a) As used in section 1 and 2, and amendments thereto:

38 (1) "Insurer" means any entity regulated under chapter 40 of the
39 Kansas Statutes Annotated, and amendments thereto, that provides cov-
40 erage for liability insurance.

41 (2) "Claimant" means any individual who has submitted a claim for ~~payment under a liability insurance contract~~ [bodily injury or wrongful death for
42 ~~payment under a liability insurance contract~~ or a claim for workers' compensation

43 (b) An insurer shall be required to comply with the provisions of this

1 section only after the secretary of social and rehabilitation services has
2 entered into an agreement pursuant to section 1, and amendments
3 thereto. The secretary of social and rehabilitation services shall make
4 available to insurers information about the data matching process, in-
5 cluding instructions for disclosing claimant information.

6 (c) An insurer shall disclose information about a claimant as in-
7 ~~structed~~ by the secretary of social and rehabilitation services if the claim-
8 ant's aggregate claim totals \$1,000 or more.

{ identified and requested

9 (d) A disclosure required pursuant to subsection (c) ~~may~~ [shall] be
10 made ~~at any time following submission of the claim, but shall be made~~
11 ~~no less than 30 days before an insurance payment is disbursed to the~~
12 ~~claimant~~ [as soon as reasonably possible after the first submission
13 of the claim].

{ An insurer shall not be required to disclose information or data to the secretary or an entity entering into an agreement with the secretary, other than as to an individual identified by the secretary when a data match is found as provided in this subsection.

14 (e) An insurer, including any agent of the insurer, shall not be liable
15 under any state law to any person for any disclosure required or author-
16 ized by this section, or for any other action taken in good faith in accord-
17 ance with this section.

18 (f) At the insurer's discretion, an insurer may disclose information as
19 provided in this section about a claimant whose aggregate claim is less
20 than \$1,000.

21 (g) Nothing in ~~this section~~ shall require an insurer to make any pay-
22 ment that is not otherwise required under the contract of insurance.

{ sections 1 or 2

23 Sec. 3. K.S.A. 39-759 is hereby amended to read as follows: 39-759.

24 (a) With respect to information obtained by the secretary under K.S.A.
25 39-758 ~~or K.S.A.~~, 39-7,136, 39-7,143 ~~and or~~ 39-7,150, and amendments
26 thereto, ~~or section 1 and 2, and amendments thereto~~, any person who
27 willfully requests, obtains or seeks to obtain confidential information ex-
28 cept in accordance with any law permitting such disclosure shall be guilty
29 of a class B nonperson misdemeanor. With respect to information ob-
30 tained by the secretary under K.S.A. 39-758 ~~or K.S.A.~~, 39-7,136, 39-7,143
31 ~~and or~~ 39-7,150, and amendments thereto, ~~or section 1 and 2, and amend-~~
32 ~~ments thereto~~, any person who willfully requests, obtains or seeks to ob-
33 tain confidential information under false pretenses or who willfully com-
34 municates or seeks to communicate such information to any person
35 except in accordance with any law permitting such disclosure shall be
36 guilty of a severity level 10, nonperson felony. If the offender is an officer
37 or employee of the state or a political subdivision of the state, such officer
38 or employee shall be dismissed from office. If the offender's supervisor
39 does not dismiss the offender, such supervisor shall be dismissed from
40 office. Any violation of this subsection by a IV-D contractor or an agent
41 of a IV-D contractor shall be grounds for termination of the IV-D contract
42 and the contract shall be terminated. The provisions of this subsection
43 shall be a complete defense in any civil action concerning such dismissal,

{ An insurer shall not be assessed any fee by the secretary of social and rehabilitative services or by any entity that has entered into an agreement pursuant to section 1.

1 termination of the IV-D contract or termination of a contractor's rela-
2 tionship with an individual offender. When the individual is hired as an
3 officer or employee of the state or a political subdivision or hired by a
4 IV-D contractor, such individual shall be given verbal and written notice
5 of the provisions of this subsection. Such individual shall sign a statement
6 stating that such information was received.

7 (b) ~~Effective October 1, 1997,~~ The secretary shall safeguard, to the
8 extent required by title IV-D or any other provision of law, any confiden-
9 tial information handled by the secretary. Unauthorized use or disclosure
10 of information relating to proceedings or actions to establish paternity or
11 to establish or enforce a support obligation is prohibited, except that noth-
12 ing in this provision shall prevent the secretary or the secretary's desig-
13 nees from using or disclosing information, or authorizing use or disclosure
14 of information, as needed in the administration of the IV-D program or
15 as authorized by title IV-D.

16 The release of information concerning the location of one party to
17 another party against whom a protective order with respect to the former
18 party has been entered is prohibited. The release of information con-
19 cerning the location of one party to another party is prohibited if the
20 secretary has reason to believe that the release of such information may
21 result in physical or emotional harm to the former party. For purposes of
22 this subsection, "has reason to believe" means that the former party has
23 claimed good cause for refusing to cooperate in IV-D activities, so long
24 as the claim is pending or has been approved. Such good cause shall relate
25 to one of the following: (1) The child was conceived as a result of incest
26 or rape; (2) there are legal proceedings for adoption of the child pending
27 before a court; (3) the custodial parent is currently being assisted by a
28 public or licensed private social agency in determining whether to keep
29 the child or relinquish the child for adoption; (4) there is documented
30 evidence to support the claim that the child may be physically or emo-
31 tionally harmed; or (5) there is documented evidence to support the claim
32 that the custodial parent may be physically or emotionally harmed so
33 seriously as to reduce the capacity to adequately care for the child.

34 (c) The provisions of this section shall be in addition to any other
35 prohibition against further disclosure, remedy or sanction provided by
36 law.

37 Sec. 4. K.S.A. 39-759 is hereby repealed.

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



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON H Sub for SB 113

SENATE FINANCIAL INSTITUTIONS AND INSURANCE March 24, 2008

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear in support of SB 113. As amended, this bill now does two things. First, the bill would clarify that life insurance companies are required to pay accrued interest and dividends on surrendered life insurance policies during the deferral period if such companies elect to defer payment of the surrender value for a period not to exceed 6 months.

Currently, when a policyholder surrenders a life insurance policy for its cash value, the insurance company is not required to pay the value until six months after the request for surrender. The Insurance Department does not have a problem with the current 6 month deferral period as this provides the insurance company time to evaluate and sell assets in order to meet the surrender value obligation.

The bill would require the companies to include the accrued interest and dividends (as determined by the original life insurance contract) in the payment of the policy's cash surrender value. The accrued interest is the amount of interest that would be credited to the policy's cash value from the date of the surrender request to the date the company pays the surrender value. The accrued dividend is the amount of dividend that would be credited to the policy from the date of the surrender request to the date the company pays the surrender value.

This is a consumer friendly measure that makes sure policyholders receive their full benefit.

The second portion of the bill affects the Kansas prompt-pay law. When an insurance company makes a payment to a provider that is in error they currently have the ability to recoup that payment at any time within five years. This practice causes serious problems for providers especially as it pertains to their taxes and financial planning.

I want to make it clear that we have no problem when insurers recoup erroneous payments. But we feel it is incumbent upon insurers to discover and report their errors in a timely fashion. HB 2699 proposes an 18 month window for insurers to recoup any payments made in error. We feel this gives an insurer ample time to discover when a miscalculation has been made and to take corrective action.

*FI & I Committee
March 24, 2008
Attachment 3*

An amendment that we proposed in the House Insurance and Financial Institutions Committee makes it clear that in instances of fraud, the statute of limitations will not be governed by this bill but rather by the provisions spelled out in K.S.A. 60-513. This would allow for companies to recoup payments made based on fraud for a period of two years from whenever the fraud was discovered or should have been discovered.

Thank you for the opportunity to appear today I would now stand for questions.

John Meetz
Government Affairs Liaison



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To: Senate Committee on Financial Institutions & Insurance

From: Dan Morin
Director of Government Affairs

Date: March 24, 2008

Subject: House sub for SB 113; AN ACT relating to insurance; concerning
recoupment of certain erroneously made payments

The Kansas Medical Society appreciates the opportunity to comment in support of H sub for SB 113, which establishes a maximum time limit on attempts by a health plan to recoup overpayments from providers.

Currently, it is possible for a Kansas physician to be continually exposed to refund for every insurance payment on every claim paid. H sub for SB 113 addresses the need for closure on the issue of payments. Frequently, overpayments are the result of minor clerical errors made in the billing office, such as the transposition of billing code numbers, and involve only nominal amounts. At times, however, overpayments are the result of systematic billing errors, such as the repeated use of an incorrect billing code or improper application of insurance coverage prerequisites. Often, physicians do not know if they have been overpaid for a particular billing code, because some insurers do not routinely disclose to practices what they pay for all billing codes. To subject a health care provider to possible refund liability in excess of 18 months if the insurer later discovers a alleged mistaken overpayment, would be to place an undue administrative burden on the provider's practice especially when, more often than not, the provider made no misrepresentations and had no knowledge of the mistake when s/he accepted payment. Establishing the legitimacy of a refund request requires determining whether the payment made by the insurer truly was erroneous. The internal administrative review process can be a significant drain on the financial resources of the targeted provider. Such reviews also divert attention of key personnel from their usual activities.

Some reasons for an erroneous payment include; payment was made for an uninsured patient; the payment was made for services or supplies not covered under the benefit plan; the payment was greater than the amount owed; or the insurer was not the payer obligated to make the payment. If the payment was not made under such examples, the payment may not be erroneous, and a refund request may be disputed. If the procedure in question occurred over 18 months past; the provider may no longer be possible to submit claims to secondary or tertiary sources of payment to make up the loss incurred by returning the payment; it may be too late for the provider to seek another source of payment, such as medical assistance; or the provider may be unable to locate the patient to collect payment. HB 2699 includes a reasonable time limit for carriers to seek repayment and we urge members to pass the bill favorably out of committee. Thank you for attention to our comments.

*FI&I Committee
March 24, 2008
Attachment 4*