STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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ANNE B. POP
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BULLETIN

TO: All Accident and Health Insurance Companies, Health Maintenance Organizations, Prepaid Limited Health Service Organizations and Hospital and Medical Service Corporations Authorized in the State of Tennessee, Including TennCare Participating Managed Care Organizations

FR: Anne B. Pope, Commissioner
Department of Commerce and Insurance

RE: CMS (formerly HCFA) Form 1500 and the Requirements of Tenn. Code Ann. § 56-53-111(b) Relating to Fraud Warnings

DT: January 15, 2002

A question has arisen concerning the new insurance anti-fraud bill passed this last legislative session by the Tennessee General Assembly. In particular, it has been brought to the attention of the Department of Commerce and Insurance that "insurers," as that term is defined at Tenn. Code Ann. § 56-53-101(6), are currently attempting to determine how best to comply with that provision in the new insurance anti-fraud bill, codified at Tenn. Code Ann. § 56-53-111(b), requiring that:

> all claim forms . . . required by law as a condition of payment of a claim, shall contain a statement . . . that clearly states the following, or words to that effect: "It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

Id.

As has been pointed out, Tenn. Comp. R. & Regs., tit. Dep't of Commerce and Ins., ch. 0780-1-20-.09(1)(a), mandates that all insurance companies offering for sale health insurance policies in this state shall require policyholders and third party complainants to utilize HCFA (now CMS) Form 1500s for all health care practitioner claims other than dental. In addition, as provided at Tenn. Comp. R. & Regs., tit. Dep't of Commerce and Ins., ch. 0780-1-73, all TennCare managed care organizations require the use of the current version of HCFA (CMS) Form 1500.

The Department has reviewed the official HCFA (CMS) Form 1500 and notes that each and every copy of the HCFA 1500 contains, in pertinent part, the following language:

> **NOTICE: Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under law and may be subject to civil penalties.**

In addition, if the claim is for Medicare payment, the following additional Certification and Notice is set out on the HCFA (CMS) Form 1500:

> I certify that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by me or were furnished incident to my professional service by my employee under my immediate personal supervision, except as otherwise expressly permitted by Medicare or CHAMPUS regulations.
>
> NOTICE: Any one who misrepresents or falsifies essential information to receive payment from Federal funds requested by this form may upon conviction be subject to fine and imprisonment under applicable Federal laws.

Finally, if the claim is for Medicaid (TennCare) payment, the following additional Certification and Notice are set out on the HCFA (CME) Form 1500:

> I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to individuals under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or Dept. of Health and Humans Services may request.
>
> NOTICE: This is to certify that the foregoing information is true, accurate and complete. I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

Clearly, the above set out language constitutes "words to the effect" that : "It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

The Department takes the position that, when a provider submits a CMS (formerly HCFA) Form 1500 to an "insurer," as that term is defined in Tenn. Code Ann. § 56-53-101(6) (such term including TennCare participating managed care organizations pursuant

to the above-paraphrased rule), it is in compliance with Tenn. Code Ann. § 56-53-111(b). Accordingly, the Department takes the position that merely accepting the CMS (formerly HCFA) Form 1500 from an health care provider does not run afoul of Tenn. Code Ann. § 56-53-111(b).

Should you have any further questions, please feel free to contact G. Everett Sinor, Jr., Assistant Commissioner for Insurance, at (615) 741-2176 or Patricia L. Newton, Assistant Commissioner for TennCare Oversight, at (615) 741-2677.

Anne B. Pope, Commissioner
Department of Commerce and Insurance

ABP:GES/PLN