

# TITLE 42

## State Affairs and Government

### CHAPTER 42-7.4

## The Healthcare Services Funding Plan Act

**§ 42-7.4-1 Short title. [Effective January 1, 2016].** – This chapter shall be known and may be cited as "The Healthcare Services Funding Plan Act."

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-2 Definitions. [Effective January 1, 2016].** – The following words and phrases as used in this chapter shall have the following meaning:

- (1) "Secretary" means the secretary of health and human services.
- (2)(i) "Insurer" means all persons offering, administering, and/or insuring healthcare services, including, but not limited to:
  - (A) Policies of accident and sickness insurance, as defined by chapter 18 of title 27;
  - (B) Nonprofit hospital or medical service plans, as defined by chapters 19 and 20 of title 27;
  - (C) Any person whose primary function is to provide diagnostic, therapeutic, or preventive services to a defined population on the basis of a periodic premium;
  - (D) All domestic, foreign, or alien insurance companies, mutual associations and organizations;
  - (E) Health maintenance organizations, as defined by chapter 41 of title 27;
  - (F) All persons providing health benefits coverage on a self-insurance basis;
  - (G) All third-party administrators described in chapter 20.7 of title 27; and
  - (H) All persons providing health benefit coverage under Title XIX of the Social Security Act (Medicaid) as a Medicaid managed care organization offering managed Medicaid.
- (ii) "Insurer" shall not include any nonprofit dental service corporation as defined in § 27-20.1-2, nor any insurer offering only those coverages described in § 42-7.4-14.

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(3)(i) "Contribution enrollee" means an individual residing in this state, with respect to whom an insurer administers, provides, pays for, insures, or covers health care services, unless excepted by this section.

(ii) "Contribution enrollee" shall not include an individual whose healthcare services are paid or reimbursed by Part A or Part B of the Medicare program, a Medicare supplemental policy as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss(g) (1), or Medicare managed care policy, the federal employees' health benefit program, Tricare, CHAMPUS, the Veterans' healthcare program, the Indian health service program, or any local governmental corporation, district, or agency providing health benefits coverage on a self-insured basis;

(iii) Delayed applicability for state employees, retirees, and dependents and not-for-profit healthcare corporations. An individual whose healthcare services are paid or reimbursed by the state of Rhode Island pursuant to chapter 12 of title 36 or a not-for-profit healthcare corporation that controls or operates hospitals licensed under chapter 17 of title 23 or a not-for-profit healthcare corporation that controls or operates hospitals licensed under chapter 17 of title 23, and facilities and programs providing rehabilitation, psychological support, and social guidance to individuals who are alcoholic, drug abusers, mentally ill or who are persons with developmental disabilities or cognitive disabilities such as brain injury, licensed under chapter 24 of title 40.1 shall not be treated as a "contribution enrollee" until July 1, 2016.

(4) "Person" means any individual, corporation, company, association, partnership, limited liability company, firm, state governmental corporations, districts, and agencies, joint stock associations, trusts, and the legal successor thereof.

(5) "Healthcare services funding contribution" means per capita amount each contributing insurer must contribute to support the programs funded by the method established under this section, with respect to each contribution enrollee; provided, however, that, with respect to an insurer that is a Medicaid managed care organization offering managed Medicaid, the healthcare funding services contribution for any contribution enrollee whose healthcare services are paid or reimbursed under Title XIX of the Social Security Act (Medicaid) shall not include the children's health services funding requirement described in § 42-12-29.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-3 Imposition of healthcare services funding contribution. [Effective January 1, 2016].** – (a) Each insurer is required to pay the healthcare services funding contribution for

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each contribution enrollee of the insurer at the time the contribution is calculated and paid, at the rate set forth in this section.

(1) Beginning January 1, 2016, the secretary shall set the healthcare services funding contribution each fiscal year in an amount equal to: (i) The child immunization funding requirement described in § 23-1-46; plus (ii) The adult immunization funding requirement described in § 23-1-46; plus (iii) The children's health services funding requirement described in § 42-12-29; and all as divided by (iv) The number of contribution enrollees of all insurers.

(2) The contribution set forth herein shall be in addition to any other fees or assessments upon the insurer allowable by law.

(b) The contribution shall be paid by the insurer; provided, however, a person providing health benefits coverage on a self-insurance basis that uses the services of a third-party administrator shall not be required to make a contribution for a contribution enrollee where the contribution on that enrollee has been or will be made by the third-party administrator.

(c) The secretary shall create a process to facilitate the transition to the healthcare services funding contribution method that: (i) assures adequate funding beginning July 1, 2016, (ii) reflects that funding via the healthcare services funding contribution method initially will be for only a portion of the state's fiscal year, and (iii) avoids duplicate liability for any insurer that made a payment under the premium assessment method in effect prior to January 1, 2016, for a period for which it would also be liable for a contribution under the healthcare services funding contribution method as described in this chapter.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-4 Returns and payment. [Effective January 1, 2016.]** – (a) Subject to subsection (b), every insurer required to make a contribution shall, on or before the last day of July, October, January and April of each year, make a return to the secretary together with payment of the quarterly healthcare services funding contribution for the preceding three (3) month period.

(b)(1) Upon request of the director of the department of health, the secretary shall develop a process whereby an insurer required to make the contribution may be directed to make estimated payments for the portion of the liability arising under § 42-7.4-3 and the secretary shall make that pre-paid amount available to the department of health, as requested.

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(2) Unless requested to make an estimated payment as described in subsection (b)(1) above, any insurer required to make the contribution that can substantiate that the insurer's contribution liability would average less than twenty-five thousand dollars (\$25,000) per month may file returns and remit payment annually on or before the last day of June each year; provided, however, that the insurer shall be required to make quarterly payments if the secretary determines that:

(i) The insurer has become delinquent in either the filing of the return or the payment of the healthcare services funding contribution due thereon; or

(ii) The liability of the insurer exceeds seventy-five thousand dollars (\$75,000) in healthcare services funding contribution per quarter for any two (2) subsequent quarters.

(c) All returns shall be signed by the insurer required to make the contribution, or by its authorized representative, subject to the pains and penalties of perjury.

(d) If a return shows an overpayment of the contribution due, the secretary shall refund or credit the overpayment to the insurer required to make the contribution, or the insurer may deduct the overpayment from the next quarterly or annual return.

(e) The secretary, for good cause shown, may extend the time within which an insurer is required to file a return, and if the return is filed during the period of extension no penalty or late filing charge may be imposed for failure to file the return at the time required by this section, but the insurer shall be liable for interest as prescribed in this section. Failure to file the return during the period for the extension shall void the extension.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-5 Set-off for delinquent payment. [Effective January 1, 2016].** – If an insurer required to make the contribution pursuant to this chapter shall fail to pay a contribution within thirty (30) days of its due date, the secretary may request any agency of state government making payments to the insurer to set-off the amount of the delinquency against any payment or amount due the insurer from the agency of state government and remit the sum to the secretary. Upon receipt of the setoff request from the secretary, any agency of state government is authorized and empowered to set-off the amount of the delinquency against any payment or amounts due the insurer. The amount of set-off shall be credited against the

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contribution due from the insurer.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-6 Assessment on available information – Interest on delinquencies – Penalties – Collection powers. [Effective January 1, 2016.]** – If any insurer shall fail to file a return within the time required by this chapter, or shall file an insufficient or incorrect return, or shall not pay the contribution imposed by this section when it is due, the secretary shall assess the contribution upon the information as may be available, which shall be payable upon demand and shall bear interest at the annual rate provided by § 44-1-7, from the date when the contribution should have been paid. If the failure is due, in whole or part, to negligence or intentional disregard of the provisions of this section, a penalty of ten percent (10%) of the amount of the determination shall be added to the contribution. The secretary shall collect the contribution with interest. The secretary may request any agency to assist in collection, including the tax administrator, who may collect the contribution with interest in the same manner and with the same powers as are prescribed for collection of taxes in title 44.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-7 Claims for refund – Hearing upon denial. [Effective January 1, 2016.]** – (a) Any insurer required to pay the contribution may file a claim for refund with the secretary at any time within two (2) years after the contribution has been paid. If the secretary shall determine that the contribution has been overpaid, he or she shall make a refund with ten percent (10%) interest from the date of overpayment.

(b) Any insurer whose claim for refund has been denied may, within thirty (30) days from the date of the mailing by the secretary of the notice of the decision, request a hearing and the secretary shall, as soon as practicable, set a time and place for the hearing and shall notify the person.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-8 Hearing by secretary on application. [Effective January 1, 2016.]** – Any insurer aggrieved by the action of the secretary in determining the amount of any contribution or penalty imposed under the provisions of this chapter may apply to the secretary, within thirty (30) days after the notice of the action is mailed to it, for a hearing relative to the contribution

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or penalty. The secretary shall fix a time and place for the hearing and shall so notify the person. Upon the hearing the secretary shall correct manifest errors, if any, disclosed at the hearing and thereupon assess and collect the amount lawfully due together with any penalty or interest thereon.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-9 Appeals. [Effective January 1, 2016].** – Appeals from administrative orders or decisions made pursuant to any provisions of this chapter shall be pursued pursuant to chapter 35 of title 42. The right to appeal under this section shall be expressly made conditional upon prepayment of all contribution, interest, and penalties unless the insurer demonstrates to the satisfaction of the court that the insurer has a reasonable probability of success on the merits and is unable to prepay all contribution, interest, and penalties, considering not only the insurer's own financial resources but also the ability of the insurer to borrow the required funds. If the court, after appeal, holds that the insurer is entitled to a refund, the insurer shall also be paid interest on the amount at the rate provided in § 44-1-7.1 of the Rhode Island general laws, as amended.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-10 Records. [Effective January 1, 2016].** – Every insurer required to make the contribution shall:

(1) Keep records as may be necessary to determine the amount of its liability under this section;

(2) Preserve those records for a period of three (3) years following the date of filing of any return required by this section, or until any litigation or prosecution under this section is finally determined; and

(3) Make those records available for inspection by the secretary or his/her authorized agents, upon demand, at reasonable times during regular business hours.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

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**§ 42-7.4-11 Method of payment and deposit of contribution. [Effective January 1, 2016].** – (a) The payments required by this chapter may be made by electronic transfer of monies to the general treasurer.

(b) The general treasurer shall take all steps necessary to facilitate the transfer of monies to:

(1) The "childhood immunization account" described in § 23-1-45(a) in the amount described in § 23-1-46(a);

(2) To the "adult immunization account" described in § 23-1-45(c) in the amount described in § 23-1-46(a);

(3) To the "children's health account" described in § 42-12-29(a) in the amount described in § 42-12-29(b); and

(4) Any remainder of the payments shall be proportionally distributed to those accounts and credited against the next year's healthcare services funding contribution.

(c) The general treasurer shall provide the secretary with a record of any monies transferred and deposited.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-12 Rules and regulations. [Effective January 1, 2016].** – The secretary is authorized to make and promulgate rules, regulations, and procedures not inconsistent with state law and fiscal procedures as he or she deems necessary for the proper administration of this healthcare services funding plan act and to carry out the provisions, policies, and purposes of this chapter including, but not limited to, data it must collect from insurers for the correct computation of the healthcare services funding contribution, collaboration with other state agencies for collecting necessary information, and the form of the return and the data that it must contain for the correct computation of the healthcare services funding contribution.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-13 Excluded coverage from the healthcare services funding plan act. [Effective January 1, 2016].** – (a) In addition to any exclusion and exemption contained elsewhere in this chapter, this chapter shall not apply to insurance coverage providing benefits for, nor shall an

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individual be deemed a contribution enrollee solely by virtue of receiving benefits for the following:

- (1) Hospital confinement indemnity;
- (2) Disability income;
- (3) Accident only;
- (4) Long-term care;
- (5) Medicare supplement;
- (6) Limited benefit health;
- (7) Specified disease indemnity;
- (8) Sickness or bodily injury or death by accident or both; and
- (9) Other limited benefit policies.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)

**§ 42-7.4-14 Impact on health insurance rates. [Effective January 1, 2016].** – (a) *Allocation.* An insurer required to make a healthcare services funding contribution may pass on the cost of that contribution in the cost of its services, such as its premium rates (for insurers), without being required to specifically allocate those costs to individuals or populations that actually incurred the contribution. The costs are to be fairly allocated among the market segments incurring such costs.

(b) *Oversight.* The health insurance commissioner shall ensure, through the rate review and approval process, that the rates filed for fully insured groups and individuals, pursuant to chapter 18.5, 18.6 or 50 of title 27, reflect the transition to the funding method described in this section.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)



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**§ 42-7.4-15 Study on expansion of Health Care Services Funding Program. [Effective January 1, 2016].** – Recognizing the value of the immunization programs to municipal employees, police, fire, and other public safety officers, and to teachers and other school district employees, the director of the department of health or his or her designee shall meet with representatives and agencies of local governments, including but not limited to the league of cities and towns, the division of municipal finance, the association of police chiefs, the association of fire chiefs, and the association of school committees, to obtain and share information regarding the effectiveness of the program and the manner and timing under which municipalities shall become included in the funding method described in this section. The department shall also seek clarification from the Centers for Medicare and Medicaid Services regarding the extent to which Medicare, Medicare managed care organizations, and Medicare supplement plans could become included in the funding method described in this section. The department shall report its findings to the chairpersons of the house finance committee and senate finance committee not later than April 1, 2015.

History of Section. (P.L. 2014, ch. 145, art. 16, § 4.)