

## 2012 Kansas Statutes

**40-2,112. Adverse underwriting decisions; reasons required to be furnished; refunds of premiums; time for making decision.** (a) In the event of an adverse underwriting decision the insurance company, health maintenance organization or agent responsible for the decision shall either provide the applicant, policyholder or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advise such persons that upon written request they may receive the specific reason or reasons in writing.

(b) Upon receipt of a written request within 60 business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance company, health maintenance organization or agent shall furnish to such person within 21 business days of the receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to subsection (a); or

(2) if specific items of medical-record information are supplied by a health care institution or health care provider it shall be disclosed either directly to the individual about whom the information relates or to a health care provider designated by the individual and licensed to provide health care with respect to the condition to which the information relates, whichever the insurance company, health maintenance organization or agent prefers; and

(3) the names and addresses of the institutional sources that supplied the specific items of information given pursuant to subsection (b)(2) if the identity of any health care provider or health care institution is disclosed either directly to the individual or to the designated health care provider, whichever the insurance company, health maintenance organization or agent prefers.

(c) The obligations imposed by this section upon an insurance company, health maintenance organization or agent may be satisfied by another insurance company, health maintenance organization or agent authorized to act on its behalf.

(d) The company, health maintenance organization or the agent, whichever is in possession of the money, shall refund to the applicant or individual proposed for coverage, the difference between the payment and the earned premium, if any, in the event of a declination of insurance coverage, termination of insurance coverage, or any other adverse underwriting decision.

(1) If coverage is in effect, such refund shall accompany the notice of the adverse underwriting decision, except such refund obligation shall not apply if:

(A) Material underwriting information requested by the application for coverage is clearly misstated or omitted and the company or health maintenance organization attempts to provide coverage based on the proper underwriting information; or

(B) the company or health maintenance organization includes with the notice of the adverse underwriting decision an offer of coverage to an applicant for life insurance under a different policy or at an increased premium. If such a counter-offer is made by the insurer, the insured or the insured's legal representative shall have 10 business days after receipt thereof in which to notify the company or health maintenance organization of acceptance of the counter-offer, during which time coverage will be deemed to be in effect under the terms of the policy for which application has been made, but such coverage shall not extend beyond 30 calendar days following the date of issuance of the counter-offer by the insurance company or health maintenance organization. The insurance company or health maintenance organization shall promptly refund the premium upon notice of the insured's refusal to accept the counter-offer or upon expiration of such 30 calendar day period, whichever occurs first.

(2) If coverage is not in effect and payment therefor is in the possession of the company, health maintenance organization or the agent, the underwriting decision shall be made within 20 business days from receipt of the application by the agent unless the underwriting decision is dependent upon substantive information available only from an independent source. In such cases, the underwriting decision shall be made within 10 business days from receipt of the external information by the party that makes the decision. The refund shall accompany the notice of an adverse underwriting decision.

**History:** L. 1981, ch. 190, § 2; L. 1989, ch. 140, § 1; L. 1990, ch. 163, § 1; L. 1994, ch. 355, § 1; May 19.