

SESSION OF 2007

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 323**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 323, if enacted, would create a new statute that would apply to third parties, including health insurers, self-insured plans, group health plans as defined in the Employee Retirement Income Security Act of 1974 (ERISA), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are by law, contract, or agreement legally responsible for payment of a claim for a health care item or services. The new statute would:

- Prohibit third parties, in enrolling an individual or making payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under the state's Medicaid program or the Medicaid program of any other state;
- Require all third parties, with respect to individuals who are eligible for or are provided medical assistance under the Medicaid program and upon the request of the state Medicaid agency (Kansas Health Policy Authority), to provide information to determine or enable a determination of what periods the individuals or their spouses or dependents may be or may have been covered by the third party payer, along with the nature of the coverage, in a manner prescribed by the United States Secretary of Health and Human Services;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Require all third parties to:
 - Accept the state Medicaid agency's right of recovery and assignment to the Medicaid agency of any right of an individual or entity to payment for an item or service for which payment has been made under the state's Medicaid program;
 - Respond to any inquiry by the state Medicaid agency or its designee regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of the health care item or service; and
 - Agree not to deny a claim submitted by the state Medicaid agency solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim if certain specified conditions are met.

The bill also defines the word "authority" as used in the new statute as the Kansas Health Policy Authority.

Background

Sub. for SB 323 would put Kansas in compliance with the federal requirements set out in the Deficit Reduction Act of 2005 which requires states to enact laws that require third party payers, as that term is set out in the federal act, to comply with the requirements set out in the federal law. Unlike other federal legislation, rather than directly imposing the requirements on third party payers, the Deficit Reduction Act of 2005 requires the states to enact laws that (1) clarify the term "third parties," (2) require third party payers to accept the state's right of recovery and assignment and to reimburse Medicaid for claims paid by Medicaid, (3) require third parties to provide the state with eligibility, coverage, and claims data, and (4) require the state to amend the state Medicaid plan to show the law or laws

that put the state in compliance. Pursuant to the federal act, Kansas must enact legislation during the 2007 Session.

The Senate Committee of the Whole amendment is technical.

There is no fiscal note on the substitute bill.