

Effective 5/8/2018

Superseded 5/14/2019

31A-26-313 Health care collection actions -- Notification required.

(1) As used in this section:

(a)

(i) "Collection action" means any action taken to recover funds that are past due or accounts that are in default:

(A) for health care services; and

(B) that directly results in an adverse report to a credit bureau.

(ii) "Collection action" includes using the services of a collection agency to engage in collection action.

(iii) "Collection action" does not include:

(A) billing or invoicing for funds that are not past due or accounts that are not in default; or

(B) providing the notice required in this section.

(b) "Credit bureau" means a consumer reporting agency as defined in 15 U.S.C. Sec. 1681a.

(c) "Text message" means a real time or near real time message that consists of text and is transmitted to a device identified by a telephone number.

(2)

(a) Before engaging in a collection action, a health care provider:

(i) shall, after the day on which the period of time for an insurer to pay or deny a claim without penalty, described in Section 31A-26-301.6, expires, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, or text message; and

(ii) for a Medicare beneficiary or retiree 65 years of age or older, shall, after the date that Medicare determines Medicare's liability for the claim, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, or text message.

(b) A health care provider may not engage in a collection action before the date described in Subsection (3)(b) for that collection action.

(3) The notice described in Subsection (2)(a) shall state:

(a) the amount that the insured owes;

(b) the date by which the insured must pay the amount owed that is:

(i) at least 45 days after the day on which the health care provider sends the notice; or

(ii) if the insured is a Medicare beneficiary or retiree 65 years of age or older, at least 60 days after the day on which the health care provider sends the notice;

(c) that if the insured fails to timely pay the amount owed, the health care provider or a third party may make a report to a credit bureau or use the services of a collection agency; and

(d) that each action described in Subsection (3)(c) may negatively impact the insured's credit score.

(4) A health care provider is not subject to the requirements described in Subsection (2) if the health care provider complies with the provisions of 26 C.F.R. Sec. 1.501(r)-6.

(5) A health care provider that contracts with a third party to engage in a collection action is not subject to the requirements described in Subsection (2) if:

(a) entering into the contract does not require a report to a credit bureau by either the health care provider or the third party; and

(b) the third party agrees to provide the notice in accordance with Subsection (2) before the third party may engage in any activity that directly results in a report to a credit bureau.

- (6) If a third party fails to comply with the notice requirements described in this section, the health care provider that renders the health care service is liable for any penalty resulting from the noncompliance of the third party.