

Senate Bill No. 67

(By Senator Stollings)

[Introduced January 14, 2015; referred to the Committee on Banking and Insurance; and then to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto six new sections, designated §48-14-1101, §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and §48-14-1106, all relating to establishing a child support insurance match program that will assist the Bureau for Child Support Enforcement in determining whether a claimant has a child support obligation; requiring certain insurance companies to notify the bureau of nonrecurring insurance settlements; providing exemptions; setting forth additional information insurance companies must provide; setting forth the bureau's and the insurance companies' respective obligations; requiring health insurance companies to participate in data-matching program with the bureau to assist in determining availability of sources of health care insurance or coverage for beneficiaries of the child support program; setting forth what information is to be supplied by insurance companies and providing exceptions; exempting insurance companies from liability for providing requested information; granting the bureau enforcement responsibilities; establishing monetary penalties; and authorizing

1 rulemaking.

2 *Be it enacted by the Legislature of West Virginia:*

3 That the Code of West Virginia, 1931, as amended, be amended by adding thereto six new
4 sections, designated §48-14-1101, §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and
5 §48-14-1106, all to read as follows:

6 **ARTICLE 14. CHILD SUPPORT INSURANCE MATCH PROGRAM.**

7 **PART XI. CHILD SUPPORT INSURANCE MATCH.**

8 **§48-14-1101. Applicability; definitions.**

9 (a) This article applies to insurance companies authorized to issue policies in this state for
10 liability insurance or workers' compensation coverage. For the purposes of this article an insurance
11 company authorized to issue policies in this state for workers' compensation coverage includes
12 employers that have been approved pursuant to section nine, article two, chapter twenty-three of this
13 code to self-insure their workers' compensation risk and to third party administrators that administer
14 claims for those employers.

15 (b) As used in this article:

16 "Bureau" means the Bureau for Child Support Enforcement within the West Virginia
17 Department of Health and Human Resources created by article eighteen, chapter forty-eight of this
18 code.

19 "Claimant" means a person who has filed a claim for personal injury, personal damages,
20 workers' compensation, wrongful or accidental death, lost wages or disability under a liability
21 insurance or workers' compensation policy.

22 "Health insurance company" or "insurance company" means any insurance company or other

1 entity that is authorized to transact health insurance business and is currently transacting health
2 insurance business in this state pursuant to any article under chapter thirty-three of this code,
3 including, but not limited to, self-insured plans, group health plans as defined in Section 607(1) of
4 the Employee Retirement Income Security Act of 1974 (29 U.S.C. §1167(1)), service benefit plans,
5 mutual insurance companies, managed care organizations, health care corporations, health
6 maintenance organizations, pharmacy benefit managers, third-party administrators and any other
7 parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a
8 health care item or service.

9 "Past-due support" or "arrearages" means the total of any matured, unpaid installments of
10 child support required to be paid by an order entered or modified by a court of competent jurisdiction
11 as described in section two hundred four, article one, chapter forty-eight of this code.

12 "Secretary" means the Secretary of the West Virginia Department of Health and Human
13 Resources.

14 **§48-14-1102. General provisions.**

15 (a) Insurance companies licensed to do business in the State of West Virginia that are
16 authorized to issue liability insurance or workers' compensation coverage shall participate in an
17 information data match program with the bureau.

18 (b) Insurance companies that participate in the federal Office of Child Support Enforcement's
19 Federal Case Registry Insurance match program, the Child Support Lien Network operated by the
20 State of Rhode Island or any other similar program approved by the secretary by rule meet the
21 reporting requirements of this section.

22 (c) Any insurance company required by subsection (a) of this section to participate in the

1 information data match program that does not utilize any of the options set forth in subsection (b)
2 of this section shall participate in the following manner:

3 (1) The insurance company shall notify the bureau in a manner specified by the bureau by
4 legislative rule of any settlement for a nonrecurring payment of insurance proceeds that are not
5 otherwise exempt from the requirements of this article in an amount equal to or in excess of \$2,500.
6 Notice shall be provided to the bureau at least thirty days prior to making the payment or as soon as
7 the payment is authorized, whichever is sooner.

8 (2) The insurance company shall provide to the bureau all available identifying information
9 that will assist the bureau in determining whether the claimant has a child support obligation. The
10 secretary shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this
11 code, the information required for identification and matching purposes. This information shall
12 include, at a minimum, the claimant's name, address, social security number and date of birth. The
13 identifying information shall be submitted in a manner and format specified in the legislative rule.

14 (3) If payment of the claim is in the form of a structured settlement or annuity, the insurance
15 company is responsible for reporting to the bureau the information required by this article prior to
16 placing any funds in the settlement or annuity.

17 (d) The bureau shall notify the insurance company if the payment is subject to withholding
18 pursuant to article fourteen, chapter forty-eight of this code, for unpaid child support or spousal
19 support and provide the insurance company the amount of any support arrearage or obligation that
20 must be withheld from the settlement proceeds.

21 (e) Upon notice from the bureau, the insurance company shall remit to the bureau the funds
22 otherwise payable to the claimant up to the amount of the past-due support.

1 (f) The income withholding notice for past-due child support has priority over all other liens
2 or levies upon the payment with the exception of:

3 (1) Legal services and medical services guaranteed pursuant to such representation provided
4 by a third party in relation to the claim;

5 (2) Security interests in lost or damaged property covered by the claim to the extent that such
6 security interest would otherwise have precedence over the income withholding; and

7 (3) One half of any payments made for lost wages under a liability or workers' compensation
8 policy.

9 (g) If an income withholding notice is not received from the bureau within thirty days of the
10 insurance company's notification of intent to disburse funds, the insurance company shall disburse
11 the payment to the claimant in accordance with the contract of insurance and is not liable to the
12 claimant or the bureau for any failure to withhold child support obligations as set forth by this article.

13 **§48-14-1103. Exemptions.**

14 (a) This article does not apply to insurance payments made for claims for property damage,
15 surgical or medical bills and expenses paid on a liability claim; nonliability first-party claims for
16 health, hospital surgical or other medical insurance; or claims for life insurance, long-term care,
17 disability insurance, credit disability income or mortgage disability income.

18 (b) Upon request from an insurance company, the secretary may grant further exemptions to
19 the requirements of this article upon a showing of undue hardship, financial burdens or other factors
20 that the secretary, in his or her discretion, determines to be appropriate.

21 **§48-14-1104. Medical insurance reporting.**

22 (a) In order to fulfill the state's obligations imposed by state and federal law, rule or

1 regulation regarding the establishment and enforcement of medical support for children in this state,
2 the Legislature finds that it is necessary for certain health insurance policy information be released
3 to the bureau.

4 (b) Health insurance companies in this state shall participate in a data matching program with
5 the bureau to assist in determining the availability of sources of health care insurance or coverage
6 for beneficiaries of the child support program.

7 (c) The bureau may send to health insurance companies a request for review of policies to
8 determine whether specifically designated individuals are covered under any medical or health
9 insurance policy. This request shall be sent in a manner specified by legislative rule. The request
10 shall be limited to only those individuals who have been ordered by a court of competent jurisdiction
11 to provide health insurance coverage to their children or dependents. The health insurance company
12 shall provide to the bureau or a vendor under contract to the bureau, electronic reports of those
13 individuals, if any, who are covered by any health insurance policy issued by the company. These
14 reports shall include at a minimum the nature of coverage provided, the policy holder's social
15 security number, address, date of birth, policy holder name, policy identification number, group
16 number, effective dates and any other information requested by the secretary that will assist in
17 identifying coverage for establishing, modifying and enforcing medical child support orders
18 administered by the bureau. The information, if available, shall be provided in a format suitable for
19 electronic data matches conducted under the direction of the bureau and in a manner specified by the
20 bureau by legislative rule.

21 (d) The bureau shall send, at least annually, requests for policy reviews to health insurance
22 companies. Requests may also be made on a periodic basis or as prescribed by the secretary by rule.

1 The health insurer shall respond within thirty working days after receipt of a written request for
2 enrollment data from the bureau or its designee.

3 (e) This section does not apply to limited benefit health and accident insurance, fixed
4 indemnity insurance, long-term care insurance, Medicare supplement insurance and Medicare
5 Advantage insurance.

6 (f) The bureau, after obtaining information from a health insurer, may disclose that health
7 insurance policy information to another party solely for the purpose of, and to the extent necessary,
8 to establish, modify or enforce a medical support obligation for a minor child.

9 **§48-14-1105. Liability and penalties.**

10 (a) Notwithstanding any other provision of this code to the contrary, an insurance company,
11 including any agent of an insurer, is not liable under any federal or state law, rules or regulations to
12 the bureau, a claimant or any other interested party for:

13 (1) Disclosing any insurance record of an individual, as required by this article, to the bureau,
14 the federal Office of Child Support Enforcement's Federal Case Registry insurance match, the Child
15 Support Lien Network operated by the State of Rhode Island or any other data matching program
16 approved by the secretary;

17 (2) Disclosing health insurance policy information to the bureau or a vendor under contract
18 with the bureau;

19 (3) Encumbering or surrendering assets held by such insurance company as required by this
20 section;

21 (4) The sufficiency of payments made based upon information provided through an intercept
22 matching system, regardless of the accuracy of the information;

1 (5) Any delay in payment that results from compliance with this article; or

2 (6) Any other action taken in good faith to comply with this article.

3 (b) The bureau is solely responsible for the enforcement of the requirements of this article
4 and may file a petition in any circuit court to seek relief and damages against any insurance company
5 that fails to participate in the data matching program or make any required payment. An insurance
6 company that fails or refuses to provide information as required by this article may have a civil
7 penalty assessed of \$500 per violation by the bureau. Per violation means per person not reported.

8 (c) If an insurance company has received notice of a child support income withholding
9 obligation from the bureau and fails or refuses to surrender property subject to the income
10 withholding, the insurance company is liable to the bureau for the amount of support included in the
11 notice.

12 (d) Information provided by the bureau to an insurance company under this article may only
13 be used for the purpose of assisting the bureau in collecting past-due child support and in
14 establishing, modifying or enforcing a medical support order. Any individual or company who uses
15 that information for any other purpose is subject to a penalty of up to \$1,000 per violation to be
16 accessed by the bureau. Per violation means per person not reported.

17 (e) A delay in payment of insurance proceeds to a claimant as a result of an insurance
18 company's compliance with this article is not an unfair or deceptive act or practice defined in section
19 four, article eleven, chapter thirty-three of this code or to chapter twenty-three relating to workers'
20 compensation claims handling or related administrative rules.

21 **§48-14-1106. Rule-making.**

22 The secretary may propose rules in accordance with article three, chapter twenty-nine-a of

1 this code that are necessary to effectuate the requirements and purposes of this article.

NOTE: The purpose of this bill is to establish a child support insurance match program that will assist the Bureau for Child Support Enforcement in determining whether a claimant has a child support obligation. The bill provides exemptions. The bill sets forth additional information insurance companies must provide. The bill sets forth the bureau's and the insurance companies' respective obligations. The bill requires health insurance companies to participate in a data matching program with the bureau to assist in determining the availability of sources of health care insurance or coverage for beneficiaries of the child support program. The bill sets forth what information is to be supplied by the insurance companies and provides exceptions. The bill exempts insurance companies from liability for providing the requested information. The bill grants the bureau enforcement responsibilities. The bill establishes monetary penalties. The bill authorizes rule-making.

§48-14-1101, §48-14-1102, §48-14-1103, §48-14-1104, §48-14-1105 and §48-14-1106 are new; therefore, strike-throughs and underscoring have been omitted.