A SURVEY OF STATE PROMPT PAY LAWS, PART II

Neda M. Ryan, Esq.
Clark Hill, PLC, Birmingham, MI

Part I of this survey (Alabama-Missouri) appeared in the Fall 2012 issue of the Communiqué. In Part II, we summarize the laws and regulations that require health plans to pay claims within a given period in the remaining states (Montana-Wyoming), as well as the penalties for violations.

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
</table>
| Montana   | Mont. Code Anno. §33-18-232 | • Every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance  
• Health service corporations | Upon receipt of a claim: 30 days  
Upon request for additional information: 60 days from receipt of proof of loss | Upon receipt of a claim: 30 days | 10% annually |
| Nebraska  | RRS Neb. §44-8004      | An entity that contracts to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including:  
• Sickness and accident insurance companies  
• HMOs  
• Prepaid limited health service organizations  
• Prepaid dental service corporations  
• Participants in insurance arrangements  
• Any other entity providing a plan of health insurance, health benefits, or health care services | Upon receipt of a clean claim:  
• Electronic: 30 days  
• Non-electronic: 45 days  
Upon receipt of supplemental information in connection with a non-clean claim: 30 days minus the number of days until the healthcare provider submitted the supplemental information | Upon receipt of a claim: 30 days | 12% per annum |
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
</table>
  – A person who directly or indirectly underwrites or collects charges or premiums from or adjusts or settles claims of residents of Nevada or any other state from within Nevada in connection with workers’ compensation insurance, life or health insurance coverage or annuities, including coverage or annuities provided by an employer for his or her employees;  
  – A person that administers an internal service fund; a person that administers a trust; a person that administers a program of self-insurance for an employer;  
  – A person that administers a program which is funded by an employer and which provides pensions, annuities, health benefits, death benefits or other similar benefits for his or her employees; or  
  – A person that is an insurance company that is licensed to do business in Nevada or is acting as an insurer with respect to a policy lawfully issued and delivered in a state where the insurer is authorized to do business, if the insurance company performs any aforementioned act, for or on behalf of another insurer unless the insurers are affiliated and each insurer is licensed to do business in Nevada  
  • HMOs  
  • Non-profit corporations for hospital, medical and dental services  
  • Group and blanket health insurance  
  • Health insurance for small employers and individual health insurance | Upon receipt of a claim, the insurer has 30 days to approve or deny the claim and must pay the claim within 30 days of approving it  
Upon receipt of all supplemental information: 30 days | Upon receipt of a claim: 20 days | Interest equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date on which the payment was due, plus six percent |
## A Survey of State Prompt Pay Laws, Part II

*Continued from page 17*

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
</table>
• Health service corporations  
• Managed care corporations | Upon receipt of a clean claim:  
• Electronic: 15 days  
• Non-electronic: 30 days  
Upon receipt of supplemental information in connection with a non-clean claim: 45 days | Upon receipt of a claim:  
• Electronic: 15 days  
• Non-electronic: 30 days | 1.5% interest per month plus, in some cases, attorneys’ fees |
|            | N.H. Admin. Rules, Ins. §3601.31                                                     | Long-term care insurers                                                   | Upon receipt of a clean claim: 30 business days  
Upon receipt of supplemental information: 30 days | Upon receipt of a claim: 30 days | 1% per month after 45 business days |
| New Jersey | NJAC §11:22-1.5                                                                         | Any insurers, health service corporations, hospital service corporations, HMOs, dental service corporations and dental plan organizations that issue health benefit plans or dental plans in New Jersey; any organized delivery system; and any agent, employee or other representative of such entity that processes claims for such entity | Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Non-electronic: 40 calendar days  
Upon receipt of supplemental:  
• Electronic: 30 calendar days  
• Non-electronic: 40 calendar days | Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Non-electronic: 40 calendar days | 10% per year |
| New Mexico | NM Stat. Ann. §59A-16-21.1                                                            | • HMOs  
• Provider service networks  
• Third party payors and their agents | Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Non-electronic: 45 calendar days  
Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Non-electronic: 45 calendar days | Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Non-electronic: 45 calendar days | 1.5% per month |
|            | 13.10.22.12 NMAC                                                                       | Managed health care plans                                                  | Upon receipt of a clean claim: 45 days | N/A                               | 1.5 times the rate established by the bulletin entered by the superintendent in January of each year |
| New York   | NY Ins. §3224-a                                                                         | Contracts for life, accident and health insurance; health and hospital service corporations; health benefit plans or HMOs | Upon receipt of a claim:  
• Electronic: 30 calendar days  
• Non-electronic: 45 calendar days  
Upon receipt of supplemental information:  
• Electronic: 30 calendar days  
• Non-electronic: 45 calendar days | Upon receipt of a claim: 30 days | The greater of the rate equal to the rate set by the commissioner of taxation and finance for corporate taxes…or twelve percent per annum |
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Carolina</td>
<td>NC Gen. Stat. §58-3-225</td>
<td>Contracts for: • Accident and health insurance • Nonprofit hospital or medical service corporation • HMO • A plan provided by a multiple employer welfare arrangement • A plan provided by another benefit arrangement to the extent it is permitted by the Employee Retirement Income Security Act</td>
<td>Upon receipt of a claim: 30 days Upon receipt of supplemental information 30 days</td>
<td>Upon receipt of the claim: 30 days</td>
<td>18% per year</td>
</tr>
<tr>
<td>North Dakota</td>
<td>ND Cent. Code §26.1-38-37.1</td>
<td>Health insurers</td>
<td>Upon receipt of the claim: 15 business days Upon receipt of supplemental information: 15 business days</td>
<td>Upon receipt of the claim: 15 business days</td>
<td>N/A</td>
</tr>
<tr>
<td>Ohio</td>
<td>ORC Ann. §3901.381</td>
<td>• Insurance companies • Health insuring corporations • Labor organizations • Employers • Intermediary organizations not in a health delivery network contracting solely with self-insured employers • Administrators • Health delivery networks • Any other person obligated pursuant to a benefits contract to reimburse for covered health care services rendered to beneficiaries under contract</td>
<td>Upon receipt of a claim: 30 days Upon receipt of a claim with material deficiencies: 45 days Upon receipt of supplemental information in connection with a defective claim: 45 days minus the number of days until the health-care provider received notice of the claim's defects</td>
<td>Upon receipt of a claim: 30 days</td>
<td>18% per year</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>36 Okl. St. §1219</td>
<td>Any entity that provides an accident and health insurance policy in Oklahoma, including, but not limited to: • A licensed insurance company • A not-for-profit hospital service and medical indemnity corporation • An HMO • A fraternal benefit society • A multiple employer welfare arrangement • Any other entity subject to regulation by the Insurance Commissioner</td>
<td>Upon receipt of a clean claim: 45 calendar days Upon receipt of supplemental information: 45 calendar days</td>
<td>Upon receipt of a claim: 30 calendar days</td>
<td>10% interest per year</td>
</tr>
<tr>
<td>Oregon</td>
<td>ORS §743.911</td>
<td>Insurers</td>
<td>Upon receipt of a clean claim: 30 days Upon receipt of supplemental information: 30 days</td>
<td>Upon receipt of a claim: 30 days</td>
<td>12 % interest per year</td>
</tr>
<tr>
<td></td>
<td>Or. Admin. R. 836-052-0770</td>
<td>Long-Term Care Insurers</td>
<td>Upon receipt of a clean claim: 30 business days Upon receipt of supplemental information: 30 days</td>
<td>Upon receipt of a claim: 30 days</td>
<td>1% interest per month</td>
</tr>
</tbody>
</table>
### A Survey of State Prompt Pay Laws, Part II

**Continued from page 19**

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pennsylvania</td>
<td>40 P.S. §991.2166</td>
<td>Licensed insurers and managed care plans</td>
<td>Upon receipt of a clean claim: 45 days</td>
<td>N/A</td>
<td>10% per annum</td>
</tr>
<tr>
<td></td>
<td>31 Pa. Code §154.18</td>
<td>Excludes automobile and workers’ compensation insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>RI Gen. Laws §27-18-61</td>
<td>• All health insurers</td>
<td>Upon receipt of a complete claim:</td>
<td>Upon receipt of a claim: 30 calendar days</td>
<td>12% per annum</td>
</tr>
<tr>
<td></td>
<td>RI Gen. Laws §27-19-52</td>
<td>• Health plans</td>
<td>Electronic: 30 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>RI Gen. Laws §27-20-47</td>
<td>• Dental plans</td>
<td>Written: 40 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>RI Gen. Laws §27-41-64</td>
<td>• Nonprofit hospital and medical service corporations</td>
<td>Upon receipt of supplemental information:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CRIR 02-031-007</td>
<td>• Nonprofit dental service corporations</td>
<td>Electronic: 30 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• HMOs</td>
<td>Written: 40 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Licensed third party administrators and contractors</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>SC Code Ann. §38-59-240</td>
<td>An insurance company, an HMO and any other entity providing health insurance</td>
<td>Upon receipt of a clean claim:</td>
<td>Upon receipt of a claim: 20 calendar days</td>
<td>8.75% per annum</td>
</tr>
<tr>
<td></td>
<td></td>
<td>coverage, which is licensed to engage in the business of insurance in South</td>
<td>Electronic: 20 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Carolina and that is subject to the State’s insurance regulation</td>
<td>Paper: 40 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Upon receipt of a supplemental</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>information:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Electronic: 20 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Paper: 40 calendar days</td>
<td></td>
<td></td>
</tr>
<tr>
<td>STATE</td>
<td>STATUTE OR REGULATION</td>
<td>APPLICATION</td>
<td>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</td>
<td>NOTICE PERIOD FOR NON-CLEAN CLAIMS</td>
<td>PENALTY</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------</td>
<td>----------</td>
</tr>
</tbody>
</table>
| South Dakota | SD Codified Laws §58-12-20                                                            | • Any commercial insurance company, employer-employee benefit plan, health maintenance organization, professional association, service benefit plan, public self-funded employer or pool, union, or fraternal group selling or otherwise offering individual or group health insurance coverage including self-insured and self-funded plans;  
• Any profit or nonprofit prepaid plan offering either medical services of full or partial payment for services included in the department’s medicaid [sic] plan;  
• Any other entity offering health benefits for which a medicaid [sic] recipient may be eligible in addition to public medical assistance;  
• Any managed care organization, third-party administrator, pharmacy benefits manager, or other entity which processes claims, administers services, or otherwise manages health benefits on behalf of any of the aforementioned insurers; or  
• Any other party that is by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service including workers’ compensation, automobile insurance, and liability insurance plans  | Upon receipt of a clean claim:  
• Electronic: 30 calendar days  
• Other: 45 calendar days  
Upon receipt of a supplemental information: 30 calendar days | Upon receipt of a claim: 30 calendar days | N/A |
| Tennessee  | Tenn. Code Ann. §56-7-109                                                               | • An entity subject to the insurance laws of Tennessee  
• An entity subject to the jurisdiction of the Insurance Commissioner  
• An entity that contracts or offers to contract to provide health insurance coverage, including, but not limited to, an insurance company, an HMO and a nonprofit hospital and medical service corporation  | Upon receipt of a clean claim:  
• Electronic: 21 calendar days  
• Paper: 30 calendar days  
Upon receipt of a supplemental information:  
• Electronic: 21 calendar days  
• Paper: 30 calendar days | Upon receipt of a claim: 21 calendar days  
Paper: 30 calendar days | 1% per month |
## A Survey of State Prompt Pay Laws, Part II

*Continued from page 21*

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>Tex. Ins. Code §542.051</td>
<td>• Any insurer authorized to engage in business as an insurance company or to provide insurance in Texas</td>
<td>Upon receipt of a clean claim insurer must furnish notice of acceptance or rejection of a claim: 15 business days Claim must be paid within 5 business days of notice</td>
<td>Upon receipt of a claim: 15 days</td>
<td>18% per year plus reasonable attorney’s fees</td>
</tr>
</tbody>
</table>
|       | Tex. Ins. Code §843.336 | • HMOs or PPOs | Upon receipt of a clean claim:  
  • Electronic: 30 days  
  • Paper: 45 days  
  Upon receipt of a supplemental information:  
  • 15 days | Upon receipt of a claim: 30 calendar days | Texas provides for a graduated penalty for unpaid claims. For claims paid:  
  • 1-45 days late, the penalty is the lesser of 50% of the difference between the billed charges and the contracted rate, or $100,000  
  • 46-90 days late, the penalty is the lesser of 100% of the difference between the billed charges and the contracted rate, or $200,000  
  • 91+ days late, the penalty is the lesser of 100% of the difference between the billed charges and the contracted rate, or $200,000, plus 18% annual interest  
  Texas also provides for a graduated penalty when only a portion of the amount of the claim is paid and the balance is unpaid or paid late. For the balance of claims paid:  
  • 1-45 days late, the penalty is the lesser of 50% of the underpaid amount, or $100,000  
  • 46-90 days late, the penalty is the lesser of 100% of the underpaid amount, or $200,000  
  • 91+ days late, the penalty is the lesser of 100% of the underpaid amount, or $200,000, plus 18% annual interest |
<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
</table>
| Utah    | Utah Code Ann. §31A-26-301.8 U.A.C. R590-192   | • Admitted or authorized insurer  
• HMO  
• Third party administrator                                                 | Upon receipt of a clean claim: 30 days     | Upon receipt of a claim: 30 days    | For first 90 days claim payment or a provider response to request for information is late, fee shall be determined by multiplying the following together:  
• Total amount of claim  
• Total number of days late  
• 0.1%  
For payments/responses more than 91 days late, adding the late fee set forth above, plus the following multiplied together:  
• Total amount of claim  
• Total number of days late beyond 90 day period  
• Legal rate of interest |
| Vermont | 18 V.S.A. 9418                                 | • Health insurers, disability insurers, health maintenance organizations, medical or hospital service corporations, and administrators of an insured or self-insured health plan.  
• Any person or entity that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services rendered to an insured by a participating provider, except the department of Vermont health access or reinsurers that neither pay claims directly nor act as contracting entities  
• Any entity that contracts with a health care provider for delivery of health care services or selling, leasing, renting, assigning, or granting of access to a contract or terms of a contract | Upon receipt of a clean claim: 30 days  
Upon receipt of supplemental information: 30 days | Upon receipt of a claim: 30 days | 12% per annum |
| Virginia| Va. Code Ann. §38.2-3407.15                   | • Any person required to be licensed to offer or operate a managed care health insurance plan or provides for the provision of health care services, health plans, networks or provider panels which are subject to regulation as the business of insurance | Upon receipt of a clean claim: 40 days  
Upon receipt of supplemental information: 40 days | Upon receipt of a claim: 30 days | Legal rate of interest |

Continued on page 24
## A Survey of State Prompt Pay Laws, Part II

Continued from page 23

<table>
<thead>
<tr>
<th>STATE</th>
<th>STATUTE OR REGULATION</th>
<th>APPLICATION</th>
<th>TIME PERIOD FOR PAYMENT OR DENIAL OF CLAIM</th>
<th>NOTICE PERIOD FOR NON-CLEAN CLAIMS</th>
<th>PENALTY</th>
</tr>
</thead>
</table>
| Washington   | WAC §284-43-321       | • Health carriers                                 | Claims must be paid as soon as practical, but subject to the following minimum standards:  
• 95% of monthly volume of clean claims paid within 30 days  
• 95% of monthly volume of all claims paid or denied within 60 days | N/A                                | 1% per month beginning on 62nd day |
| West Virginia| W. Va. Code §33-45-2  | • Any person required to be licensed as an insurer which offers or administers as a third party administrator health insurance, operates a health plan, or provides or arranges for the provision of health care services through networks or provider panels.  
• Does not include credit accident and sickness insurance, accident and sickness policies providing benefits for loss of income due to disability, any policy of workers’ compensation insurance, hospital indemnity or other fixed indemnity insurance, or life, property and casualty insurance. | Upon receipt of clean claim:  
• Manual: 40 days  
• Electronic: 30 days  
Upon receipt of supplemental information: 30 days | Upon receipt of a claim: 30 days after receipt of claim | 10% per annum after 40 day period |
| Wisconsin    | Wis. Stat. §628.46    | • Person or association of persons doing an insurance business as a principal.  
• Includes fraternal, issuers of gift annuities, cooperative associations, and risk retention groups.  
• Also includes any person purporting or intending to do an insurance business as a principal on his or her own account. | Upon receipt of a claim: 30 days | N/A                                | 12% per year                          |
| Wyoming      | Wyo. Stat. §26-15-124 | Claims for benefits under health insurance policy | Upon receipt of a claim: 45 days | N/A                                | May include attorney fees and interest at 10% per year |

Neda M. Ryan, Esq. is an associate with Clark Hill, PLC in the firm’s Birmingham, MI office. Ms. Ryan practices in all areas of health care law, assisting clients with transactional and corporate matters; representing providers and suppliers in health care litigation matters; providing counsel regarding compliance and reimbursement matters; and representing providers and suppliers in third party payor audit appeals. She can be reached at (248) 988-3884 or at nryan@clarkhill.com.