



Ohio Revised Code

Section 3961.07 Investigation of plan by superintendent.

Effective: March 23, 2007

Legislation: Senate Bill 5 - 126th General Assembly

(A) The superintendent of insurance may examine or investigate the business and affairs of a discount medical plan organization as the superintendent deems appropriate to protect the interests of the residents of this state.

(B) When examining or investigating a discount medical plan organization pursuant to division (A) of this section, the superintendent may do both of the following:

(1) Order a discount medical plan organization to produce any records, files, advertising and solicitation materials, lists of providers with which the organization contracted, lists of members, provider agreements described in section 3961.02 of the Revised Code, agreements between a marketer and discount medical plan organization described in section 3961.03 of the Revised Code, or other information;

(2) Take statements under oath to determine whether a discount medical plan organization has violated or is violating sections 3961.01 to 3961.08 of the Revised Code or is acting contrary to the public interest.

(C)(1) All records and other information concerning a discount medical plan organization obtained by the superintendent or the superintendent's deputies, examiners, assistants, agents, or other employees pursuant to division (B) of this section are confidential and not public records as defined in section 149.43 of the Revised Code unless the organization is given notice and opportunity for hearing pursuant to Chapter 119. of the Revised Code concerning the records and other information obtained under division (B) of this section. If no administrative action is initiated with respect to a particular matter about which the superintendent obtained records or other information under division (B) of this section, the records and other information shall remain confidential for three years after the file on the matter is closed. Release of the records and other information after the three-year period shall be governed by section 149.43 of the Revised Code.



(2) The records and other information described in division (C)(1) of this section shall remain confidential for all purposes except where the superintendent or the superintendent's deputies, examiners, assistants, agents, or other employees appropriately take official action regarding the affairs of the discount medical plan organization or marketer or in connection with actual or potential criminal proceeding.

(D) Notwithstanding division (C) of this section, the superintendent may do any of the following:

(1) Share records and other information obtained pursuant to division (B) of this section with other persons employed by or acting on behalf of the superintendent; local, state, federal, and international regulatory and law enforcement agencies; local, state, and federal prosecutors; and the national association of insurance commissioners and its affiliates and subsidiaries if the recipient agrees and has authority to agree to maintain the confidential status of the records or other information;

(2) Disclose records and other information obtained pursuant to division (B) of this section in furtherance of any regulatory or legal action brought by or on behalf of the superintendent or this state resulting from the exercise of the superintendent's official duties.

(E) Notwithstanding divisions (C) and (D) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential records and other information obtained pursuant to division (B) of this section with local, state, federal, and international regulatory and law enforcement agencies and local, state, and federal prosecutors if the recipient agrees and has authority to agree to maintain the confidential status of the records and other information.

(F) Any applicable privilege or claim of confidentiality is not waived as a result of sharing or disclosing information pursuant to division (D)(1) or (E) of this section.

(G) Employees or agents of the department of insurance shall not be required by any court in this state to testify in a civil action if the testimony concerns any matter related to records or other information considered confidential under this section.

(H) Nothing in this section shall be construed to limit the superintendent's powers under section



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3901.04 of the Revised Code.