

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Health insurance-reimbursement of overpayments.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to health insurance; specifying a time
2 limit to seek reimbursement for health insurance
3 overpayments; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 26-15-137 is created to read:

8

9 **26-15-137. Time limit to seek reimbursement for**
10 **health insurance overpayments.**

11

1 An action or request for reimbursement of any overpayment
 2 of a health insurance claim to a health care provider
 3 pursuant to any health insurance contract shall be brought
 4 not more than two (2) years after the date the claim was
 5 paid. No insurer, assignee of the insurer, or other person,
 6 whether acting for himself or another in connection with a
 7 health insurance transaction, shall make any claim or seek
 8 recovery for reimbursement of any overpayment to a health
 9 care provider pursuant to any health insurance contract
 10 more than two (2) years after the date the claim was paid,
 11 unless the claim was fraudulent.

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15 STAFF COMMENT

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 17 The Committee heard testimony that the look-back period for
 18 insurers to seek reimbursement from health care providers
 19 is ten years and instructed LSO to draft a bill amending
 20 the look-back period to two years. However, there does not
 21 appear to be a Wyoming statute specifically setting forth
 22 the look-back period for these types of overpayments.

23

24 The ten-year period likely stems from the statute of
 25 limitations for actions based upon a written contract. W.S.
 26 1-3-105(a)(i) ("Civil actions other than for the recovery
 27 of real property can only be brought within the following
 28 periods after the cause of action accrues: (i) Within ten
 29 (10) years, an action upon a specialty or any contract,
 30 agreement or promise in writing[.]").

31

32 The Legislature may specify a different statute of
 33 limitations. W.S. 1-3-102 ("Civil actions can only be

1 commenced within the periods prescribed in this chapter,
2 after the cause of action accrues, but where a different
3 limitation is prescribed by statute, that shall govern.”).

4
5 This bill draft is modeled on Kentucky Statute 304.14-375,
6 which is part of the Kentucky Insurance Code and sets forth
7 a simple two-year time limit to seek reimbursement of
8 health insurance overpayments, unless the claim was false
9 or fraudulent.

10
11 In Wyoming, the statute of limitations for fraud is four
12 years. W.S. 1-3-105(a)(iv)(D). W.S. 1-3-106 provides that a
13 cause of action for fraud accrues when the fraud is
14 discovered. The Wyoming Supreme Court has interpreted W.S.
15 1-3-106 to mean that “a claim for fraud accrues when a
16 plaintiff actually discovers the fraud or could have
17 discovered the fraud through the exercise of reasonable
18 diligence.” *Robert L. Kroenlein Tr. v. Kirchhefer*, 2015 WY
19 127, ¶ 29, 357 P.3d 1118, 1128 (Wyo. 2015).

20
21 Look-back statutes in other states (sometimes referred to
22 as "recoupment" statutes) are often complex. Some states:

- 23
- 24 • Define terms related to requests for reimbursement.
25
26 ○ See, e.g., Ala. Code 27-1-17(b); Ariz. Rev.
27 Stat. 20-3101; Del. Code Ann. tit. 18, 2730(e),
28 (f); N.H. Rev. Stat. Ann. 420-J;8-b(I); Utah
29 Code Ann. 31A-26-301.6(1); Vt. Stat. Ann. tit.
30 18, 9418(a); Va. Code Ann. 38.2-3407.15(A); W.
31 Va. Code Ann. 33-45-1.
32
 - 33 • Require the insurer to give the provider notice as
34 specified.
35
36 ○ See, e.g., Ala. Code 27-1-17(g); Del. Code Ann.
37 tit. 18, 2730(a); Fla. Stat. Ann. 627.6131(6);
38 N.H. Rev. Stat. Ann. 420-J;8-b(III); Ohio Rev.
39 Code Ann. 3901.388(C); S.C. Code Ann. 38-59-
40 250(A); Vt. Stat. Ann. tit. 18, 9418(h); Va.
41 Code Ann. 38.2-3407.15(B)(7)-(8); Wash. Rev.
42 Code 48.43.600(1), (2).
43

- 1 • Establish a time limit for the provider to respond to
2 the insurer's request for reimbursement or specify
3 that if the provider does not contest the request for
4 reimbursement then the request is deemed accepted.
5
6 ○ See, e.g., Ala. Code 27-1-17(g); Fla. Stat. Ann.
7 627.6131(6); Ohio Rev. Code Ann. 3901.388(B);
8 Wash. Rev. Code 48.43.600(1), (2).
9
- 10 • Require the insurer to provide a method for the
11 provider to challenge the request for reimbursement.
12
13 ○ See, e.g., Ariz. Rev. Stat. 20-3102(F); Del.
14 Code Ann. tit. 18, 2730(b); Ohio Rev. Code Ann.
15 3901.388(B); Utah Code Ann. 31A-26-301.6(9); Va.
16 Code Ann. 38.2-3407.15(B)(12).
17
- 18 • Carve out exceptions to the look-back period or
19 provide a different look-back period for specified
20 circumstances (e.g., fraud, misrepresentation,
21 coordination of benefits, duplicate payments, the
22 provider did not deliver the services, required by a
23 self-insured plan, required by a state or federal
24 government program, Medicare, etc.).
25
26 ○ See, e.g., Ala. Code 27-1-17(e), (f); Ariz. Rev.
27 Stat. 20-3102(I); Del. Code Ann. tit. 18,
28 2730(c); Fla. Stat. Ann. 627.6131(6); Ind. Code
29 Ann. 27-8-5.7-10(c); Miss. Code Ann. 83-41-
30 219(3); Mont. Code Ann. 33-22-150(4); N.H. Rev.
31 Stat. Ann. 420-J;8-b(II); Ohio Rev. Code Ann.
32 3901.388(A); S.C. Code Ann. 38-59-250(B); Utah
33 Code Ann. 31A-26-301.6(14); Vt. Stat. Ann. tit.
34 18, 9418(i); Va. Code Ann. 38.2-3407.15(B)(7);
35 Wash. Rev. Code Ann. 48.43.600(1), (3), (7); W.
36 Va. Code Ann. 33-45-2(7).
37
- 38 • Specify that conflicting contractual provisions are
39 unenforceable or that the statutory requirements
40 cannot be waived by contract.
41
42 ○ See, e.g., Ala. Code 27-1-17(h); Del. Code Ann.
43 tit. 18, 2730(g); Fla. Stat. Ann. 627.6131(10);

1 Ohio Rev. Code Ann. 3901.388(D); Wash. Rev. Code
2 48.43.600(4).
3

- 4 • Allow the insurer and provider to agree through
5 contract on a length of time to adjust or request
6 adjustment of payment.

- 7
- 8 ○ See, e.g., Ariz. Rev. Stat. 20-3102(I).
- 9

10 The Committee inquired whether pharmacy benefit managers
11 would be covered by an amendment to the look-back period
12 for health care providers. There appears to be a separate
13 two-year look-back period applicable to pharmacy benefit
14 managers. W.S. 26-52-103(a)(iii) provides: "Any pharmacy
15 benefit manager or person acting on behalf of a pharmacy
16 benefit manager who conducts an audit of a pharmacy shall
17 follow the following procedure: . . . (iii) Limit the
18 period covered by the audit to not more than two (2) years
19 from the date that an audited claim was adjudicated[.]"

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21 *****
22 *****
23

24 **Section 2.** This act shall apply to health insurance
25 overpayments made on or after the effective date of this
26 act.

27

28 **Section 3.** This act is effective July 1, 2024.

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30 (END)