

2021 Kansas Statutes

40-3807. Same; premium collection and payment of claims. (a) All insurance charges, premiums, collateral and loss reimbursements collected by an administrator on behalf of or for a payor, and the return of premiums or collateral received from that payor, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally or state-insured financial institution. The written agreement between the administrator and the payor shall provide for the administrator to periodically render an accounting to the payor detailing all transactions performed by the administrator pertaining to the business of the payor, and the written agreement between the payor and the administrator shall include specifications of this reporting.

(b) The administrator shall keep copies of all records of any fiduciary account maintained or controlled by the administrator, and, upon request of a payor, shall furnish the payor with copies of such records pertaining to deposits and withdrawals on behalf of the payor. If charges or premiums so deposited have been collected on behalf of or for more than one payor, or for the payment of claims associated with more than one policy, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each payor and relating to each policyholder.

(c) The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from a fiduciary account shall be made as provided in the written agreement between the administrator and the payor, and only for the following purposes: (1) Remittance to an insurer entitled thereto; (2) deposit in an account maintained in the name of the payor; (3) transfer to and deposit in a claims paying account, with claims to be paid as provided in subsection (d); (4) payment to a group policyholder for remittance to the payor entitled thereto; (5) payment to the administrator of its earned commissions, fees or charges; (6) remittance of return premiums to the person or persons entitled thereto; or (7) payment to other service providers as authorized by the payor.

(d) All claims paid by the administrator from funds collected on behalf of or for a payor shall by [be] paid only as authorized by the payor. Payments from an account maintained or controlled by the administrator may be made for the following purposes including the payment of claims: (1) Payment of valid claims; (2) payment of expenses associated with the handling of claims to the administrator or to other service providers approved by the payor; (3) remittance to the payor, or transfer to a successor administrator as directed by the payor, for the purpose of paying claims and associated expenses; and (4) return of funds held as collateral or prepayment, to the person entitled to those funds, upon a determination by the payor that those funds are no longer necessary to secure or facilitate the payment of claims and associated expenses.

History: L. 1978, ch. 174, § 7; L. 2017, ch. 2, § 12; Mar. 9.