

**11 NCAC 12 .0561 DEDUCTIBLES AND COPAYMENTS BASED ON REAL COST**

(a) As used in this Rule:

- (1) "Health benefit plan" means any accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement.
- (2) "Health care provider" includes any person who, under Chapter 90 of the General Statutes is licensed, registered, or certified to engage in the practice of or performs duties associated with any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a hospital as defined by G.S. 131E-76(3); or a nursing home as defined by G.S. 131E-101(6).
- (3) "Health insurer" means any health insurance company subject to Articles 1 through 63 of Chapter 58, including a multiple employer welfare arrangement; any preferred provider plan; and any corporation subject to Articles 65 and 67 of Chapter 58; that provides a health benefit plan.

(b) If health insurers enter into contracts with health care providers for the provision of health care services at discounted rates of payment (including capitated and other alternative negotiated rates), and applicable deductibles or copayments paid by insureds are to be based upon a percentage of the fees for services rendered, the amounts of deductibles and copayments shall be computed based on such rates for the services rendered when such rates are less than the provider's ordinary charges for the services rendered.

(c) The following are deemed to be unfair and deceptive acts and practices in the business of insurance:

- (1) Attempting to settle a claim or attempting to charge or to collect or charging or collecting copayments in amounts greater than those calculated in accordance with this Rule.
- (2) Attempting to pay or settle or paying or settling a claim based upon the calculation of a deductible that is not calculated in accordance with this Rule.
- (3) Attempting to calculate or calculating an annual, calendar, or lifetime maximum amount payable on any amounts other than as set forth in this Rule.
- (4) Attempting to settle a claim involved in coordination of benefits in any manner not in accordance with this Rule.
- (5) Attempting to collect a claim against a stop-loss or excess health insurer in any manner inconsistent with this Rule.

(d) Negotiating discounts with health care providers based upon the total volume of services and that is settled on a retrospective basis in which the discounts are not attributed to individual claimants, is not deemed to be an unfair and deceptive act or practice in the business of insurance.

*History Note: Authority G.S. 58-2-40; 58-50-55; 58-63-65; 58-65-1; 58-65-40; 58-65-140; 58-67-150; Eff. January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*