

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 630 Session of 1995

INTRODUCED BY KING, DEMPSEY, GANNON, E. Z. TAYLOR, FARGO, FICHTER, LYNCH, MERRY, FARMER, STERN, KUKOVICH, BAKER, BELFANTI, ALLEN, HERSHEY, GORDNER, CLARK, STISH, SEMMEL, TRUE, BATTISTO, EGOLF, TRELLO, NYCE, HARHART, MELIO AND OLASZ, FEBRUARY 7, 1995

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 7, 1995

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for nondiscrimination in
12 rural patient access to providers of health care benefit
13 plans.

14 The General Assembly finds and declares as follows:

15 (1) This Commonwealth has the nation's largest rural
16 population.

17 (2) This Commonwealth's rural areas have lower
18 population densities, greater distances and more difficult
19 travel terrain, fewer resources such as public
20 transportation, more chronic health care needs and a greater
21 population proportion of elderly and those living in poverty
22 than their urban counterparts.

1 (3) Access to some type of care, including emergency
2 services, is inadequate in rural areas of this Commonwealth,
3 contributing to an accidental death rate in rural areas that
4 is 40 times higher than in urban locations.

5 (4) Agriculture is the nation's most hazardous industry
6 with a work-related death rate that is 22% higher than the
7 second most hazardous industry, which is mining and
8 quarrying. With 70% of this Commonwealth's farms operated by
9 families, in 1994 children under 19 years of age accounted
10 for 15% of this Commonwealth's farm fatalities.

11 (5) There is a shortage of health care facilities and
12 doctors in rural areas of this Commonwealth. Rural areas are
13 experiencing great difficulties in recruiting prospective
14 physicians.

15 (6) People want to choose their own doctor and how far
16 they want to drive for health care services. They want to
17 know that treatment, if needed, is nearby.

18 (7) Managed care programs take choice of doctor and
19 health care facility away from the individual.

20 (8) The recent rapid introduction of managed care health
21 programs into the rural areas of this Commonwealth has caused
22 great concern in regard to the negative effect of these
23 programs on recruitment and retention of health care
24 providers.

25 (9) Rural citizens' health care needs will be at further
26 risk as managed care programs remove necessary incentives for
27 rural doctors and other health care providers to stay and
28 work in rural communities.

29 (10) In response to the increased risk of our rural
30 citizens' health care, there shall be openness and

1 nondiscrimination in any health care benefit plan operating
2 in the rural areas of this Commonwealth.

3 (11) To improve health care access for this
4 Commonwealth's rural citizens and to enhance recruitment and
5 retention of doctors and other health professionals in rural
6 areas, an article shall be added to carry out the above-
7 stated findings and declarations.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
11 as The Insurance Company Law of 1921, is amended by adding an
12 article to read:

13 ARTICLE XIX.

14 NON-DISCRIMINATION IN RURAL PATIENT ACCESS TO

15 PROVIDERS OF HEALTH CARE BENEFIT PLANS.

16 Section 1901. Definitions.--As used in this article the
17 following words and phrases shall have the meanings given to
18 them in this section:

19 "Health care benefit plan." An insurance policy, contract or
20 plan that provides health care to participants or beneficiaries
21 directly or through insurance, reimbursement or otherwise.

22 "Health care payer." An individual or entity that is
23 responsible for providing or paying for all or part of the cost
24 of health care services covered by a health care benefit plan. A
25 health care payer includes, but is not limited to:

26 (1) A person that establishes, operates or maintains a
27 network of participating providers.

28 (2) An entity subject to:

29 (i) 40 Pa.C.S. Ch. 61 (relating to hospital plan
30 corporations) or 63 (relating to professional health service

1 plan corporations).

2 (ii) This act, including any preferred provider organization
3 subject to section 630.

4 (iii) The act of December 29, 1972 (P.L.1701, No.364), known
5 as the "Health Maintenance Organization Act."

6 (iv) The act of December 14, 1992 (P.L.835, No.134), known
7 as the "Fraternal Benefit Societies Code."

8 (v) An agreement by a self-insured employer or self-insured
9 multiple employer trust to provide health care benefits to
10 employees and their dependents.

11 "Participating provider." A provider who has entered into an
12 agreement with a health care payer, directly or indirectly, to
13 provide such services or supplies to a patient enrolled in a
14 health care benefit plan.

15 "Provider." A physician or other person appropriately
16 licensed by the Bureau of Professional and Occupational Affairs
17 to provide health care services.

18 Section 1902. Scope of Article.--The provisions of this
19 article shall apply to all counties within this Commonwealth,
20 except counties of the first class, counties of the second class
21 and counties of the second class A.

22 Section 1903. Credentialing.--(a) A health care payer who
23 establishes, operates or maintains a participating provider
24 network shall not exclude providers from participation except in
25 accordance with this section.

26 (b) All health care payers shall credential participating
27 providers within the plan and allow all providers within the
28 plan's geographic service area to apply for such credentials. At
29 least once per year, health care payers shall notify providers
30 of the opportunity to apply for credentials. Such a

1 credentialing process shall begin upon application of a provider
2 to the plan for inclusion. Each application shall be reviewed by
3 a credentialing committee with appropriate representation of the
4 applicant's medical specialty.

5 (c) Credentialing shall be based on objective standards of
6 quality with input from providers credentialed in the plan, and
7 such standards shall be available to applicants and enrollees.
8 When economic considerations are part of the decision, objective
9 criteria must be used and must be available to applicants,
10 participating providers and enrollees. Any economic profiling of
11 providers must be adjusted to recognize case mix, severity of
12 illness, age of patients and other features of a provider's
13 practice that may account for higher-than-expected or lower-
14 than-expected costs. Profiles must be made available to those so
15 profiled. When graduate medical education is a consideration in
16 credentialing, equal recognition shall be given to training
17 programs accredited by the Accrediting Council on Graduate
18 Medical Education and by the American Osteopathic Association.

19 (d) Health care payers shall be prohibited from
20 discriminating against enrollees with expensive medical
21 conditions by excluding providers with practices containing a
22 substantial number of such patients. Payers shall not exclude
23 providers on the basis that they lack hospital admitting
24 privileges.

25 (e) All decisions shall be made on the record, and the
26 applicant shall be provided with all reasons used if the
27 application is denied or the contract is not renewed.

28 (f) Health care payers shall not include clauses in
29 physician or other provider contracts that allow for the plan to
30 terminate the contract "without cause."

1 (g) There shall be a due process appeal from all adverse
2 decisions. The due process appeal mechanisms shall be as set
3 forth in the Health Care Quality Improvement Act of 1986 (Public
4 Law 99-660, 42 U.S.C. § 11101 et seq.).

5 (h) The same standards and procedures used for an
6 application for credentials shall also be used in those cases
7 where the payer seeks to reduce or withdraw such credentials.
8 Prior to initiation of a proceeding leading to termination of a
9 contract "for cause," the provider shall be provided with
10 notice, an opportunity for discussion and an opportunity to
11 enter into and complete a corrective action plan, except in
12 cases where there is imminent harm to patient health or an
13 action by a State medical board or other government agency that
14 effectively impairs the provider's ability to practice within
15 the jurisdiction.

16 Section 1904. Input Into Plan's Medical Policy.--Health care
17 payers shall establish a mechanism, with defined rights, under
18 which providers participating in the plan provide input into the
19 plan's medical policy, including coverage of new technology and
20 procedures, utilization review criteria and procedures, quality
21 and credentialing criteria and medical management procedures.

22 Section 1905. Interpretation and Intent.--Provisions of the
23 Employee Retirement Income Security Act of 1974 (Public Law 93-
24 406, 29 U.S.C. § 1001 et seq.) may be interpreted to prohibit
25 the application of this article to certain types of health care
26 benefit plans and health care payers. It is the intent of the
27 General Assembly that this article be given the broadest
28 possible application and that its scope include applications
29 permitted by future legislative amendments and judicial
30 interpretations of the Employee Retirement Income Security Act

1 of 1974.

2 Section 2. The provisions of this act are severable. If any
3 provision of this act or its application to any person or
4 circumstance is held invalid, the invalidity shall not affect
5 other provisions or applications of this act which can be given
6 effect without the invalid provision or application.

7 Section 3. This act shall take effect in 60 days.