

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1497 Session of
1993

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VAN HORNE, MAY 3, 1993

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 1994

AN ACT

1 Providing for equal access to health care; requiring physician <—
2 HEALTH CARE PROVIDER referral networks; imposing powers and <—
3 duties on the Department of Health and the Department of
4 Public Welfare; and providing for penalties INSURANCE <—
5 GUIDELINES.

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

9 CHAPTER 1

10 GENERAL PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the ~~Equal Access~~ <—
13 to Health Care Act.

14 ~~Section 102. Legislative findings and intent.~~ <—

15 ~~All citizens of this Commonwealth have a right to~~
16 ~~nondiscriminatory treatment by health care providers regardless~~
17 ~~of a citizen's source of payment for health care services, and~~
18 ~~all citizens of this Commonwealth shall have equal access to~~
19 ~~physician health care services.~~

20 Section ~~103~~ 102. Definitions. <—

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "District." A portion of this Commonwealth established by
25 section 202(a).

26 "HEALTH CARE PROVIDER." AN INDIVIDUAL WHO IS AUTHORIZED TO <—
27 PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A LICENSE,
28 PERMIT, CERTIFICATE OR REGISTRATION ISSUED BY A COMMONWEALTH
29 LICENSING AGENCY OR BOARD. THE TERM INCLUDES, BUT IS NOT LIMITED
30 TO, A MEDICAL DOCTOR, AN OSTEOPATHIC PHYSICIAN, A CHIROPRACTOR,

1 A DENTIST, AN OPTOMETRIST, A PHARMACIST, A PHYSICAL THERAPIST, A
2 PODIATRIST, A PROFESSIONAL NURSE AND A PSYCHOLOGIST.

3 "MAAC." The Medical Assistance Advisory Committee.

4 "Medical assistance." The State program of medical
5 assistance established under the act of June 13, 1967 (P.L.31,
6 No.21), known as the Public Welfare Code.

7 "Medicaid." The Federal medical assistance program
8 established under Title XIX of the Social Security Act (49 Stat.
9 620, 42 U.S.C. § 301 et seq.).

10 "MEDICAL GROUPS." THE PENNSYLVANIA MEDICAL SOCIETY AND ITS <—
11 LOCAL AND COUNTY MEDICAL SOCIETIES AND THE PENNSYLVANIA
12 OSTEOPATHIC MEDICAL ASSOCIATION.

13 "Medicare." The Health Insurance for the Aged Act, Title
14 XVIII of the Social Security Amendments of 1965, as amended.

15 "Physician referral network." Any county or area physician
16 referral network for medical assistance recipients established
17 under section 201.

18 "Primary care physicians." Family and general practitioners,
19 obstetricians, pediatricians, internists and emergency
20 physicians.

21 "REFERRAL NETWORK." ANY COUNTY OR AREA HEALTH CARE PROVIDER <—
22 REFERRAL NETWORK FOR MEDICAL ASSISTANCE RECIPIENTS ESTABLISHED
23 UNDER SECTION 201.

24 "Specialty care physicians." All physicians who are not
25 primary care physicians.

26 ~~"Workers' Compensation." The workers' compensation program~~ <—
27 ~~established under the act of June 2, 1915 (P.L.736, No.338),~~
28 ~~known as The Pennsylvania Workmen's Compensation Act.~~

29 CHAPTER 2

30 PHYSICIAN HEALTH CARE PROVIDER <—

REFERRAL NETWORKS

~~Section 201. Physician referral networks for medical assistance recipients.~~

~~(a) Establishment. The Department of Health, in cooperation with the Pennsylvania Medical Society and its local and county medical societies and the Pennsylvania Osteopathic Medical Association, shall establish physician referral networks in all areas of this Commonwealth where access to the services of primary care and/or specialty care physicians by medical assistance beneficiaries is significantly below that available to the general population.~~

~~(b) Purpose. The purpose of these physician referral networks shall be to assure access to primary care and specialty physicians in this Commonwealth by medical assistance beneficiaries.~~

SECTION 201. HEALTH CARE PROVIDER REFERRAL NETWORKS FOR MEDICAL ASSISTANCE RECIPIENTS.

(A) ESTABLISHMENT.--THE DEPARTMENT OF HEALTH, IN COOPERATION WITH THE MEDICAL GROUPS, SHALL ESTABLISH HEALTH CARE PROVIDER REFERRAL NETWORKS IN ALL AREAS OF THIS COMMONWEALTH WHERE ACCESS TO THE SERVICES OF HEALTH CARE PROVIDERS BY MEDICAL ASSISTANCE BENEFICIARIES IS SIGNIFICANTLY BELOW THAT AVAILABLE TO THE GENERAL POPULATION.

(B) PURPOSE.--THE PURPOSE OF THESE REFERRAL NETWORKS SHALL BE TO ASSURE ACCESS TO HEALTH CARE PROVIDERS IN THIS COMMONWEALTH BY MEDICAL ASSISTANCE BENEFICIARIES.

Section 202. Determination of where ~~physician~~ referral networks to be established.

(a) Districts.--For purposes of this act, this Commonwealth shall be divided into districts determined by the Department of

1 Health in consultation with the ~~Pennsylvania Medical Society~~ <—
2 MEDICAL GROUPS. <—
3 (b) ~~Physician referral networks. Physician referral~~ <—
4 REFERRAL NETWORKS.--REFERRAL networks shall be established in at <—
5 least half of the districts established in subsection (a) within
6 one year of the effective date of this act and in all districts
7 within two years of the effective date of this act.
8 (c) Submission of plan.--The Department of Health, in
9 cooperation with the ~~Pennsylvania Medical Society~~ MEDICAL GROUPS <—
10 and the Consumer Subcommittee of the MAAC shall, within 180 days
11 of the effective date of this act, submit to the General
12 Assembly a plan prioritizing the order of districts in which
13 ~~physician~~ referral networks will be established. <—
14 Section 203. Administration.
15 (a) Services.--Each ~~physician~~ referral network shall provide <—
16 referral assistance to medical assistance beneficiaries in
17 obtaining appropriate ~~primary care and specialty physician~~ <—
18 HEALTH CARE PROVIDER services in a timely manner and within <—
19 reasonable commuting distance. The ~~physician~~ referral network <—
20 shall place a priority on referring medical assistance
21 beneficiaries to ~~physicians~~ HEALTH CARE PROVIDERS whose practice <—
22 is in the beneficiaries' county of residence. In fulfilling this
23 purpose, the ~~physician~~ referral network shall offer ~~physicians~~ <—
24 HEALTH CARE PROVIDERS on an equitable and rotating basis to <—
25 medical assistance beneficiaries seeking ~~physician~~ HEALTH CARE <—
26 PROVIDER services. Medical assistance beneficiaries shall have
27 the right to request up to three ~~physician~~ HEALTH CARE PROVIDER <—
28 referrals.
29 (b) ~~Lists. Each physician referral network established~~ <—
30 ~~shall maintain a list of all physicians to be used in referring~~

1 ~~medical assistance beneficiaries seeking a physician for the~~
2 ~~county or region of the physician referral network. The State~~
3 ~~Board of Medicine and the State Board of Osteopathic Medicine~~
4 ~~shall provide the Department of Health with the names, office~~
5 ~~addresses and telephone numbers of all physicians for each~~
6 ~~district where a physician network is established.~~

7 ~~(c) Outreach program. The Department of Health, in~~
8 ~~coordination with the Pennsylvania Medical Society, shall~~

9 (B) LISTS.--EACH REFERRAL NETWORK ESTABLISHED SHALL MAINTAIN <—
10 A LIST OF ALL HEALTH CARE PROVIDERS TO BE USED IN REFERRING
11 MEDICAL ASSISTANCE BENEFICIARIES SEEKING A HEALTH CARE PROVIDER
12 FOR THE COUNTY OR REGION OF THE REFERRAL NETWORK. THE
13 PROFESSIONAL ASSOCIATIONS OF HEALTH CARE PROVIDERS SHALL PROVIDE
14 THE DEPARTMENT OF HEALTH WITH THE NAMES, OFFICE ADDRESSES AND
15 TELEPHONE NUMBERS OF ALL HEALTH CARE PROVIDERS FOR EACH DISTRICT
16 WHERE A REFERRAL NETWORK IS ESTABLISHED.

17 (C) OUTREACH PROGRAM.--THE DEPARTMENT OF HEALTH, IN
18 COORDINATION WITH THE MEDICAL GROUPS, SHALL establish an
19 outreach program to promote the use of the ~~physician~~ referral <—
20 networks by medical assistance recipients and those agencies and
21 organizations who administer programs utilized by medical
22 assistance beneficiaries.

23 (d) Toll-free hotlines.--The Department of Health shall
24 establish a toll-free hotline for use by medical assistance
25 beneficiaries, ~~physicians~~ HEALTH CARE PROVIDERS, county <—
26 assistance offices, hospitals and the general public to receive
27 and refer calls to the appropriate ~~physician~~ referral network <—
28 for medical assistance recipients needing a ~~physician~~ HEALTH <—
29 CARE PROVIDER. This hotline shall also receive, record and
30 respond to calls concerning complaints about lack of access to

1 ~~physicians~~ HEALTH CARE PROVIDERS for medical assistance <—
2 beneficiaries and complaints of ~~physicians~~ HEALTH CARE PROVIDERS <—
3 about medical assistance beneficiaries who do not make scheduled
4 ~~physician~~ HEALTH CARE PROVIDER appointments. The Department of <—
5 Health shall maintain a record of all complaints filed and if
6 any action by the Department of Health or the ~~physician~~ referral <—
7 network was taken to solve the complaint.

8 (e) Additional information.--When the Department of Public
9 Welfare sends determination or redetermination notices of
10 medical assistance eligibility to medical assistance
11 beneficiaries, the Department of Public Welfare shall include
12 information about the ~~physician~~ referral networks and the toll- <—
13 free hotline established in subsection (d).

14 Section 204. Evaluation of ~~physician~~ referral networks. <—

15 (a) Criteria.--Within two years of the effective date of
16 this act, the Department of Health, in consultation with the
17 ~~Pennsylvania Medical Society~~ MEDICAL GROUPS and the Consumer <—
18 Subcommittee of the MAAC, shall establish evaluation criteria to
19 be used in determining whether, in those districts where a
20 ~~physician~~ referral network is established, access to ~~physician~~ <—
21 ~~services by medical assistance beneficiaries is equal to that of~~
22 ~~the general population.~~ HEALTH CARE PROVIDER SERVICES IS <—
23 AVAILABLE TO MEDICAL ASSISTANCE BENEFICIARIES.

24 (b) Independent evaluation.--

25 (1) Three years after the effective date of this act,
26 the Department of Health shall have an independent evaluation
27 conducted, using the evaluation criteria in subsection (a) to
28 determine the effectiveness of each ~~physician~~ referral <—
29 network established under this act. This evaluation shall be
30 completed within 180 days. Based on the independent

1 evaluation, records of all complaints filed with the
2 Department of Health under section 203(d), and any other data
3 and information determined to be relevant to the evaluation,
4 the Department of Health shall determine, for each of the
5 ~~physician~~ referral networks established under this act, <—
6 whether the ~~physician~~ referral network has resulted in <—
7 providing access to ~~physician~~ HEALTH CARE PROVIDER services <—
8 by medical assistance beneficiaries. ~~that is equal to that of~~ <—
9 ~~the general population.~~

10 (2) In its evaluation of each ~~physician~~ referral <—
11 network, the Department of Health shall allow for the
12 submission by the general public of data or information
13 concerning whether the ~~physician~~ referral network has <—
14 resulted in providing access to ~~physician~~ HEALTH CARE <—
15 PROVIDER services by medical assistance beneficiaries. ~~that~~ <—
16 ~~is equal to that of the general population.~~

17 (3) In its evaluation of each ~~physician~~ referral <—
18 network, the Department of Health shall determine whether the
19 ability of each referral network to provide access to
20 ~~physicians~~ HEALTH CARE PROVIDERS for medical assistance <—
21 beneficiaries ~~that is equal to that in the general population~~ <—
22 is not attainable due to the inadequacy of payments to
23 ~~physicians~~ HEALTH CARE PROVIDERS under the medical assistance <—
24 program.

25 (c) Further evaluation.--

26 (1) Three years after the effective date of this act,
27 the Department of Health shall have an independent evaluation
28 conducted, using the evaluation criteria in subsection (a) to
29 determine the effectiveness of the ~~physician~~ referral network <—
30 program. This evaluation shall be completed within 180 days.

1 Based on the independent evaluation, records of all
2 complaints filed with the Department of Health under section
3 203(d), and any other data and information determined to be
4 relevant to the evaluation, the Department of Health shall
5 determine whether or not the ~~physician~~ referral networks <—
6 should be continued for another five years.

7 (2) In its evaluation, the Department of Health shall
8 allow for the submission by the general public of data or
9 information concerning whether, in those counties or regions
10 where ~~physician~~ referral networks were established, access to <—
11 ~~physician~~ HEALTH CARE PROVIDER services by medical assistance <—
12 ~~beneficiaries is equal to that of the general population. IS~~ <—
13 AVAILABLE TO MEDICAL ASSISTANCE BENEFICIARIES.

14 (3) In its evaluation, the Department of Health shall
15 determine whether the ability of the ~~physician~~ referral <—
16 network to provide access to ~~physicians~~ HEALTH CARE PROVIDERS <—
17 for medical assistance beneficiaries that is equal to that in
18 the general population is not attainable at the existing
19 level of payments to ~~physicians~~ HEALTH CARE PROVIDERS under <—
20 the medical assistance program.

21 (d) Expiration.--The ~~physician~~ referral network program <—
22 shall expire five years after the effective date of this act,
23 absent action by the General Assembly.

24 ~~CHAPTER 3~~ <—

25 ~~ACCESS TO HEALTH CARE~~

26 ~~Section 301. Discrimination prohibited.~~

27 ~~(a) Nondiscrimination. No health care provider in this~~
28 ~~Commonwealth shall discriminate against any person based on that~~
29 ~~person's enrollment in or eligibility for medical assistance or~~
30 ~~otherwise based upon a person's source of payment for health~~

1 care.

2 ~~(b) Definition. As used in this section, the term~~
3 ~~"discriminate" shall include, but not be limited to, the~~
4 ~~following:~~

5 ~~(1) The refusal to provide health or medical care or~~
6 ~~services, diagnosis or treatment which the health care~~
7 ~~provider is qualified to provide.~~

8 ~~(2) The segregation of medical assistance, Medicare or~~
9 ~~workers' compensation patients from other patients with~~
10 ~~respect to office or health service facilities.~~

11 ~~(3) The rendering of inferior medical or health care~~
12 ~~services.~~

13 ~~Section 302. Enforcement.~~

14 ~~The Department of Public Welfare shall exercise all powers~~
15 ~~necessary and appropriate to enforce this chapter, including,~~
16 ~~but not limited to, the following powers:~~

17 ~~(1) To require health care providers to enter into~~
18 ~~provider agreements with the Department of Public Welfare.~~

19 ~~(2) To monitor and enforce health care provider~~
20 ~~participation in the medical assistance program, Medicare~~
21 ~~program and workers' compensation program.~~

22 ~~Section 303. Remedy.~~

23 ~~Any individual alleging discrimination under this chapter may~~
24 ~~file a civil cause of action in a court of competent~~
25 ~~jurisdiction against a health care provider alleged to be in~~
26 ~~violation of this chapter. If the health care provider is found~~
27 ~~to have violated this chapter, the court may assess attorney~~
28 ~~fees, costs and penalties against the health care provider in~~
29 ~~addition to any monetary compensation to the plaintiff. A~~
30 ~~judgment against a health care provider shall be referred by the~~

~~court to the appropriate professional licensing authority or
regulatory agency.~~

CHAPTER 4 3

~~EQUAL~~ ACCESS TO PHYSICIAN HEALTH CARE SERVICES

Section ~~401~~ 301. Purpose.

The purpose of this chapter is to assure that access to
~~primary care and specialty care physicians services by medical
assistance, Medicare and workers' compensation beneficiaries is
equal to that of the general population. This shall be met by
establishing criteria for primary care and specialty care
physicians to meet in fulfilling this purpose.~~ HEALTH CARE
PROVIDER SERVICES IS AVAILABLE TO BENEFICIARIES.

Section ~~402~~ 302. Evaluation criteria.

(a) Establishment of evaluation criteria.--Within 180 days
of the effective date of this act, the Department of Health, in
consultation with the ~~Pennsylvania Medical Society, the
Pennsylvania Osteopathic Medical Association~~ PROFESSIONAL
ASSOCIATIONS OF HEALTH CARE PROVIDERS and the Consumer
Subcommittee of the MAAC, shall establish evaluation criteria to
be used and the data to be collected in determining whether
access to ~~physician services by medical assistance, Medicare and
workers' compensation beneficiaries is equal to that of the
general population.~~ HEALTH CARE PROVIDER SERVICES IS AVAILABLE
TO MEDICAL ASSISTANCE BENEFICIARIES.

(b) Publication.--Within 12 months of the establishment of
the criteria and the data to be collected, and annually
thereafter, the Department of Health shall publish the data
collected during the preceding period.

~~Section 403. Criteria for evaluation.~~

~~(a) Criteria. Criteria for evaluating whether access to~~

~~physician services by medical assistance, Medicare and workers' compensation beneficiaries is equal to that of the general population shall include:~~

~~(1) A compilation and comparison of the number of medical assistance beneficiaries who request a physician through a physician referral network established under chapter 2 and who are referred to such physicians.~~

~~(2) A standard for measuring access to primary care physicians whereby at least 50% of such physicians by county participate and document incrementally by year an appropriate number of claims each year. The number of claims shall be established for each county.~~

~~(3) A standard for measuring specialty care physicians, including the number of such physicians participating in the medical assistance program by district established in section 202(a), the number of medical assistance claims per physician and the adequacy of reimbursement.~~

~~(4) Recognition that participation in a physician referral network and acceptance of all referrals made thereby shall constitute active participation.~~

~~(b) Insufficient base. Where the absence of sufficient physicians prevents successful referral, access shall be deemed to be no less than that available to the general population.~~

SECTION 303. CRITERIA FOR EVALUATION.

CRITERIA FOR EVALUATING WHETHER ACCESS TO HEALTH CARE PROVIDER SERVICES IS AVAILABLE TO MEDICAL ASSISTANCE BENEFICIARIES SHALL BE BASED ON A COMPILATION AND COMPARISON OF THE NUMBER OF MEDICAL ASSISTANCE BENEFICIARIES WHO REQUEST A HEALTH CARE PROVIDER THROUGH A REFERRAL NETWORK ESTABLISHED UNDER CHAPTER 2 AND WHO ARE REFERRED TO SUCH HEALTH CARE

1 PROVIDER. WHERE THE ABSENCE OF SUFFICIENT PHYSICIANS PREVENTS
2 SUCCESSFUL REFERRAL, ACCESS SHALL BE DEEMED TO BE AVAILABLE.

3 Section ~~404~~ 304. Evaluation. <—

4 (a) Initial evaluation.--Three years after the effective
5 date of this act, the Department of Health shall have an
6 independent evaluation conducted, using the evaluation criteria
7 established under section ~~402~~ 302, to determine by county <—
8 whether access to ~~primary care physician~~ HEALTH CARE PROVIDER <—
9 services and by district whether access to ~~specialty care~~ <—
10 ~~physician~~ HEALTH CARE PROVIDER services for medical assistance <—
11 beneficiaries is ~~equal to that of the general population~~ <—
12 AVAILABLE. This evaluation shall be completed within 180 days <—
13 thereafter.

14 (b) Annual evaluation.--After the initial evaluation under
15 subsection (a), the Department of Health shall conduct an
16 evaluation annually thereafter to determine by county whether
17 access to ~~primary care physician~~ HEALTH CARE PROVIDER services <—
18 and by district whether access to ~~specialty care physician~~ <—
19 ~~services for~~ HEALTH CARE PROVIDER SERVICES IS AVAILABLE TO <—
20 medical assistance beneficiaries. ~~is equal to that of the~~ <—
21 ~~general population.~~

22 (c) Publication.--The Department of Health shall annually
23 publish the data set forth in section ~~403~~ 303 and the results of <—
24 the evaluation conducted under subsections (a) and (b).

25 Section ~~405.~~ ~~Sanctions for physician nonparticipation in the~~ <—
26 ~~medical assistance program.~~

27 ~~(a) Submission. Based upon its evaluation in section 404,~~
28 ~~the Department of Health shall submit within 30 days to the~~
29 ~~Department of Public Welfare the names of those counties for~~
30 ~~primary care physicians and separately those districts for~~

~~specialty care physicians where it has determined access to physician services by medical assistance beneficiaries is not equal to that of the general population.~~

~~(b) Penalty assessment. Upon receipt of notice from the Department of Health under subsection (a), the Department of Public Welfare shall impose an assessment on all physicians within the designated county or district who do not actively participate in the medical assistance program. The Department of Public Welfare shall use the evaluation criteria set forth in section 403 to determine if a physician is actively participating in the medical assistance program. The Department of Public Welfare shall determine the assessment amount based on the funding necessary to meet the purposes of this chapter and to treat those medical assistance recipients within the designated area without access to physicians by any or all of the following methods: expanding physician staff at an existing health care clinic serving medical assistance beneficiaries, establishing a health care clinic to serve medical assistance beneficiaries and contracting with a specified number of physicians to treat a specified number of medical assistance beneficiaries. Money collected by the Department of Public Welfare under this section shall be placed in a special restricted receipt account and shall be used only for those measures determined by the Department of Public Welfare under this subsection. Any moneys remaining in this account shall annually be remitted to the Department of Public Welfare for enforcing the provisions of this subsection. Assessments collected under this act shall not be subject to the provisions of 42 Pa.C.S. § 3733 (relating to deposits into account).~~

~~(c) Review of participation. In addition to any assessment~~

1 ~~imposed in subsection (b), the Department of Public Welfare, one~~
2 ~~year after the initial assessment imposed in subsection (b),~~
3 ~~shall determine, based on criteria set forth in section 403,~~
4 ~~whether the physician is still not actively participating in the~~
5 ~~medical assistance program. If the Department of Public Welfare~~
6 ~~determines that the physician is not actively participating in~~
7 ~~the medical assistance program, the Department of Public Welfare~~
8 ~~shall notify all hospitals licensed in this Commonwealth of this~~
9 ~~determination. Upon receipt of this notification from the~~
10 ~~Department of Public Welfare, hospitals that have granted~~
11 ~~hospital privileges to the physician shall suspend those~~
12 ~~privileges. The sanction in this subsection shall be withdrawn~~
13 ~~upon documentation that the physician has met the criteria set~~
14 ~~forth in section 402. The Department of Public Welfare may~~
15 ~~suspend the sanction set forth in this subsection for any~~
16 ~~physician who enters into a written agreement with the~~
17 ~~Department of Public Welfare setting forth specific actions the~~
18 ~~physician will immediately take to actively participate in the~~
19 ~~medical assistance program. Within 60 days following a~~
20 ~~suspension of the sanction in this subsection, the Department of~~
21 ~~Public Welfare shall determine whether the physician is in~~
22 ~~compliance with the agreement. At any time the Department of~~
23 ~~Public Welfare determines that a physician is not in compliance~~
24 ~~with the agreement, the sanctions set forth in this subsection~~
25 ~~shall be reimposed. If the Department of Public Welfare~~
26 ~~determines that the physician is not affiliated with a hospital~~
27 ~~in this Commonwealth, then the assessment imposed in subsection~~
28 ~~(b) may be increased.~~

29 ~~(d) Payment or appeal. Any physician charged under~~
30 ~~subsection (b) shall have 30 days to pay the assessed penalty in~~

1 full, or, if the provider wishes to contest either the amount of
2 the penalty or the fact of the violation, the party shall
3 forward the assessed penalty, not to exceed \$2,500, to the
4 Secretary of Public Welfare for placement in an escrow account
5 with the State Treasurer. If, after administrative hearing or
6 judicial review of the proposed penalty, it is determined that
7 no violation occurred or that the amount of the penalty shall be
8 reduced, the Secretary of Public Welfare shall, within 30 days,
9 remit the appropriate amount to the physician or hospital with
10 any interest accumulated by the escrow deposit. Failure to
11 forward the payment to the Secretary of Public Welfare within 30
12 days shall result in a waiver of rights to contest the fact of
13 the violation or the amount of the penalty. The amount assessed
14 after administrative hearing or a waiver of the administrative
15 hearing shall be payable to the Commonwealth and shall be
16 collectible in any manner provided by law for the collection of
17 debts. If any provider liable to pay the penalty neglects or
18 refuses to pay the penalty after demand, the failure to pay
19 shall constitute a judgment in favor of the Commonwealth in the
20 amount of the penalty, together with the interest and any costs
21 that may accrue.

22 (c) Appeal. Any physician charged under subsection (c)
23 shall have 30 days to contest the suspension of hospital
24 privileges by forwarding \$2,500 to the Secretary of Public
25 Welfare for placement in an escrow account with the State
26 Treasurer. If, after administrative hearing or judicial review
27 of the proposed penalty, it is determined that no violation
28 occurred, the Secretary of Public Welfare shall, within 30 days,
29 remit the \$2,500 to the physician with any interest accumulated
30 by the escrow deposit. Failure to forward the payment to the

~~Secretary of Public Welfare within 30 days shall result in a
waiver of rights to contest the fact of the violation.
Section 406. Enforcement authority.~~

~~The Department of Public Welfare shall have the authority to
bring proceedings in Commonwealth Court to enforce the
provisions of this chapter.~~

~~CHAPTER 5~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 501. Effective date.~~

CHAPTER 4

INSURANCE GUIDELINES

SECTION 401. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"PREEXISTING CONDITION." A PHYSICAL OR MENTAL CONDITION
WHICH EXISTED PRIOR TO THE ISSUANCE OF A HEALTH INSURANCE
POLICY.

"REINSURANCE." INSURANCE PURCHASED BY AN INSURANCE COMPANY.
REINSURANCE HELPS TO MAINTAIN SOLVENCY WHEN AN INSURER HAS TO
ACCEPT A HIGH-RISK INDIVIDUAL AND ALSO MAKES IT POSSIBLE FOR
SMALL INSURERS TO COMPETE EFFECTIVELY AGAINST LARGER ONES.
REINSURANCE FINANCIALLY ASSISTS AN INSURER TO PAY CLAIMS.

SECTION 402. PREEXISTING CONDITIONS.

(A) PROHIBITION.--INSURERS ARE PROHIBITED FROM EXCLUDING AN
INDIVIDUAL FROM COVERAGE DUE TO A PREEXISTING CONDITION.

(B) SURCHARGE.--IF A HIGH-RISK INDIVIDUAL HAS HAD NO HEALTH
INSURANCE COVERAGE FOR SIX MONTHS PRIOR TO ISSUANCE OF A NEW
POLICY BY AN INSURER, THE INSURER MAY SURCHARGE THE INDIVIDUAL
AN ADDITIONAL PREMIUM FOR THE FIRST SIX MONTHS OF THE POLICY

1 ISSUED. THE TOTAL PREMIUM MAY NOT BE MORE THAN 150% OF THE
2 LOWEST PREMIUM WHICH WOULD BE CHARGED TO THE INDIVIDUAL WITHOUT
3 REGARD TO THE NATURE OF THE INDIVIDUAL'S CONDITION.

4 SECTION 403. MEDICAL UNDERWRITING.

5 AN INSURER SHALL NOT USE MEDICAL UNDERWRITING TO EXCLUDE OR
6 LIMIT COVERAGE OF INDIVIDUALS.

7 SECTION 404. REINSURANCE.

8 AN INSURER MAY REINSURE AS LONG AS THIS DOES NOT INCREASE THE
9 PREMIUMS OF EMPLOYERS OR INDIVIDUALS.

10 CHAPTER 7

11 MISCELLANEOUS PROVISIONS

12 SECTION 701. EFFECTIVE DATE.

13 This act shall take effect (to be determined).