

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 75

Session of
1997

INTRODUCED BY BOYES, READSHAW, FLICK, TIGUE, RAYMOND, ROONEY,
DeLUCA, CASORIO, HENNESSEY, WALKO, BUNT, BELARDI,
E. Z. TAYLOR, BOSCOLA, PRESTON, CIVERA AND CAPPABIANCA,
JANUARY 28, 1997

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 28, 1997

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 the coordination of
12 certain health benefits.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
16 as The Insurance Company Law of 1921, is amended by adding a
17 section to read:

18 Section 621.6. Coordination of Benefits.--(a) All group
19 health or sickness or accident insurance policies providing
20 hospital or medical/surgical coverage and all group subscriber
21 contracts or certificates issued by any entity subject to this
22 act, to 40 Pa.C.S. Ch. 61 (relating to hospital plan

1 corporations) or Ch. 63 (relating to professional health
2 services plan corporations), the act of December 29, 1972
3 (P.L.1701, No.364), known as the "Health Maintenance
4 Organization Act," or the act of December 14, 1992 (P.L.835,
5 No.134), known as the "Fraternal Benefit Societies Code,"
6 providing hospital or medical/surgical coverage that provide
7 protection or insurance against hospital, medical or surgical
8 expenses shall be delivered or issued for delivery in this State
9 containing a provision for coordinating its benefits with any
10 similar benefits provided by any other group health or sickness
11 or accident insurance policy or group subscriber contract or
12 certificate providing hospital or medical/surgical coverage that
13 provides protection or insurance against hospital, medical, or
14 surgical expenses for the same loss.

15 (b) All health or sickness or accident insurance policies
16 providing hospital or medical/surgical coverage and all
17 subscriber contracts or certificates issued by any entity
18 subject to 40 Pa.C.S. Ch. 61 or 63, the "Health Maintenance
19 Organization Act," or the "Fraternal Benefit Societies Code,"
20 providing hospital or medical/surgical coverage that provide
21 protection or insurance against hospital, medical or surgical
22 expenses delivered, issued or issued for delivery in this State
23 shall not contain any provision whereby the insurer may reduce
24 or refuse to pay benefits otherwise payable thereunder solely on
25 account of the existence of similar benefits provided under
26 insurance policies issued by the same or another insurer,
27 hospital plan corporation, professional health services plan
28 corporation, health maintenance organization, or fraternal
29 benefit society which provides protection or insurance against
30 hospital, medical or surgical expenses unless, as a condition of

coordinating benefits with another insurer, the insurers together pay one hundred per centum (100%) of the total reasonable expenses actually incurred of the type of expense within the benefits described in the policies and presented to the insurer for payment.

(c) The standards provided in subsection (b) are applicable in coordinating benefits payable under Medicare pursuant to Title XVIII of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

(d) When a claim is submitted in accordance with any group health or sickness or accident insurance policy providing hospital or medical/surgical coverage, or in accordance with any group subscriber contract or certificate as set forth in subsection (a) that provides protection, insurance or indemnity against hospital, medical or surgical expenses, and the policy or any other document that provides coverage includes a coordination-of-benefits provision and the claim involves another policy or plan which has a coordination-of-benefits provision, the following rules shall be used to determine the order in which benefits under the respective health policies or plans will be determined:

(1) The benefits of a policy, subscriber contract or certificate, or plan which covers the person as an employee, member or subscriber, other than as a dependent, are determined before those of the policy or plan which covers the person as a dependent.

(2) (i) Except as stated in subsection (e), when two or more policies, subscriber contracts or certificates, or plans cover the same child as a dependent of different parents, the following shall apply:

1 (A) the benefits of the policy, subscriber contract or
2 certificate, or plan of the parent whose birthday, excluding
3 year of birth, falls earlier in a year are determined before
4 those of the policy or plan of the parent whose birthday,
5 excluding year of birth, falls later in that year; but

6 (B) if both parents have the same birthday, the benefits of
7 the policy, subscriber contract or certificate, or plan which
8 covered the parent for a longer period of time are determined
9 before those of the policy or plan which covered the parent for
10 a shorter period of time.

11 (ii) However, if a policy, subscriber contract or
12 certificate, or plan subject to the rule based on the birthday
13 of the parents as stated above coordinates with an out-of-State
14 policy or plan which contains provisions under which the
15 benefits of a policy, subscriber contract or certificate, or
16 plan which covers a person as a dependent of a male are
17 determined before those of a policy, subscriber contract or
18 certificate, or plan which covers the person as a dependent of a
19 female and if, as a result, the policies, subscriber contracts
20 or certificates, or plans do not agree on the order of benefits,
21 the provisions of the other policy, subscriber contract or
22 certificate, or plan shall determine the order of benefits.

23 (e) (i) If two or more policies, subscriber contracts or
24 certificates, or plans cover a dependent child of divorced or
25 separated parents, benefits for the child shall be determined in
26 the following order:

27 (A) First, the policy, subscriber contract or certificate,
28 or plan of the parent with custody of the child.

29 (B) Second, the policy, subscriber contract or certificate,
30 or plan of the spouse of the parent with custody of the child.

1 (C) Third, the policy, subscriber contract or certificate,
2 or plan of the parent not having custody of the child.

3 (ii) However, if the specific terms of a court decree state
4 that one of the parents is responsible for the health care
5 expenses of the child and if the entity obliged to pay or
6 provide the benefits of the policy, subscriber contract or
7 certificate, or plan of that parent has actual knowledge of
8 those terms, the benefits of that policy, subscriber contract or
9 certificate, or plan are determined first. This does not apply
10 with respect to any claim determination period or plan or policy
11 year during which any benefits are actually paid or provided
12 before that entity has that actual knowledge.

13 (f) The benefits of a policy, subscriber contract or
14 certificate, or plan which covers a person as an employee who is
15 neither laid-off nor retired, or as that employee's dependent,
16 are determined before those of a policy, subscriber contract or
17 certificate, or plan which covers that person as a laid-off or
18 retired employee or as that employee's dependent. If the other
19 policy, subscriber contract or certificate, or plan is not
20 subject to this rule, and if, as a result, the policies,
21 subscriber contracts or certificates, or plans do not agree on
22 the order of benefits, this paragraph shall not apply.

23 (g) If none of the rules in subsections (d)(1) and (2), (e)
24 or (f) determine the order of benefits, the benefits of the
25 policy, subscriber contract or certificate, or plan which
26 covered an employee, member or subscriber for a longer period of
27 time are determined before those of the policy, subscriber
28 contract or certificate, or plan which covered that person for
29 the shorter period of time.

30 (h) Coordination of benefits shall not be permitted against

1 fixed indemnity coverage, accident-only coverage, credit
2 insurance, Medicare supplements, disability income insurance,
3 coverage issued as a supplement to liability insurance, worker's
4 compensation or similar insurance, specified disease policies or
5 automobile medical payment insurance.

6 Section 2. The Insurance Department may promulgate rules and
7 regulations to administer and enforce this act.

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