

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1311

Session of
2001

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WILT, WOGAN AND YUDICHAK, APRIL 9, 2001

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 18, 2001

AN ACT

1 Establishing the Catastrophic Illness in Children Relief Fund
2 and the Catastrophic Illness in Children Relief Fund
3 Commission; providing for the powers and duties of the
4 commission; establishing a program for the payment of medical
5 expenses of children in cases of catastrophic illness; and
6 providing for funding.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Catastrophic
11 Illness in Children Relief Act.

12 Section 2. Legislative findings and declarations.

13 The General Assembly finds and declares as follows:

14 (1) Although the majority of Americans are covered by
15 some form of health insurance, families nevertheless lack
16 protection against the high cost of chronic or single

1 episodes of serious illness that may destroy their resources.
2 An illness resulting in this potentially devastating
3 financial consequence is referred to as a catastrophic
4 illness.

5 (2) Catastrophic illnesses often threaten to push some
6 families into bankruptcy and others toward seeking inferior
7 medical care and present a major problem for this nation's
8 health care system because catastrophic illnesses account for
9 over 20% of this nation's health expenditures.

10 (3) The impact of catastrophic illnesses on the family
11 is especially acute because children have the highest average
12 medical costs among the population as a whole.

13 (4) It is the public policy of this Commonwealth that
14 each child have access to quality health care and adequate
15 protection against the extraordinarily high costs of health
16 care services which are determined to be catastrophic and
17 that severely impact a child and his family.

18 (5) To this end, it is incumbent upon the Commonwealth
19 to provide assistance to children and their families whose
20 medical expenses extend beyond the families' available
21 resources.

22 Section 3. Definitions.

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

26 "Catastrophic illness." An illness or condition, the medical
27 expenses of which are not covered by any other Federal or State
28 program or any insurance contract and which exceed 30% of the
29 income of a family whose income is \$100,000 or less per year or
30 40% of the income of a family whose income is in excess of

1 \$100,000 per year.

2 "Child." A person 17 18 years of age or younger. <—

3 "Commission." The Catastrophic Illness in Children Relief
4 Fund Commission.

5 "Family." A child and the child's parent, parents or legal
6 guardian, as the case may be, who is legally responsible for the
7 child's medical expenses.

8 "Fund." The Catastrophic Illness in Children Relief Fund.

9 "Income." All income, from whatever source derived, actually
10 received by a family.

11 "MASTER SETTLEMENT AGREEMENT." THE SETTLEMENT AGREEMENT AND <—
12 RELATED DOCUMENTS ENTERED INTO ON NOVEMBER 23, 1998, BY THE
13 COMMONWEALTH AND LEADING UNITED STATES TOBACCO PRODUCT
14 MANUFACTURERS AND APPROVED BY THE COURT IN COMMONWEALTH V.
15 PHILIP MORRIS, APRIL TERM, 1997, NO.2443 (C.P. PHILADELPHIA
16 COUNTY), ON JANUARY 13, 1999.

17 "Program." The program for paying medical expenses of
18 children in cases of catastrophic illness as set forth in this
19 act.

20 "Resident." A person legally domiciled within this
21 Commonwealth for a period of six months immediately preceding
22 the date of application for inclusion in the program. Mere
23 seasonal or temporary residence within this Commonwealth, of
24 whatever duration, shall not constitute domicile. Absence from
25 this Commonwealth for a period of 12 months or more shall be
26 prima facie evidence of abandonment of domicile. The burden of
27 establishing legal domicile within this Commonwealth shall be on
28 the parent or legal guardian of a child.

29 ~~"Tobacco litigation master settlement agreement." The Master~~ <—
30 ~~Settlement Agreement relating to tobacco litigation entered into~~

1 ~~in 1998 by the Commonwealth and leading United States tobacco~~
2 ~~product manufacturers.~~

3 Section 4. Catastrophic Illness in Children Relief Fund.

4 (a) Establishment.--The Catastrophic Illness in Children
5 Relief Fund is hereby established as a nonlapsing, revolving
6 fund. The fund shall be administered by the commission and shall
7 be credited with moneys received under section 9.

8 (b) Disbursements.--The State Treasurer shall be the
9 custodian of the fund, and all disbursements from the fund shall
10 be made by the State Treasurer upon vouchers signed by the
11 chairperson of the commission. The moneys in the fund shall be
12 invested and reinvested by the State Treasurer as are other
13 trust funds in the custody of the State Treasurer in the manner
14 provided by law. Interest received on the moneys in the fund
15 shall be credited to the fund.

16 Section 5. Catastrophic Illness in Children Relief Fund
17 Commission.

18 (a) Establishment.--There is hereby established within the
19 Department of Health the Catastrophic Illness in Children Relief
20 Fund Commission.

21 (b) Members.--The commission shall consist of the Secretary
22 of Health, the Secretary of Public Welfare, the Insurance
23 Commissioner and the State Treasurer, who shall be members ex
24 officio. The commission shall consist of three members of the
25 Senate appointed by the President pro tempore of the Senate and
26 three members of the House of Representatives appointed by the
27 Speaker of the House of Representatives. In no case shall more
28 than two members from either the Senate or the House of
29 Representatives be from the same political party. The commission
30 shall also consist of nine public members who are residents of

1 this Commonwealth, appointed by the Governor with the advice and
2 consent of the Senate for terms of five years. Of the public
3 members, two shall be appointed upon the recommendation of the
4 President pro tempore of the Senate and shall be providers of
5 health care services to children in this Commonwealth and two
6 shall be appointed upon the recommendation of the Speaker of the
7 House of Representatives and shall be providers of health care
8 services to children in this Commonwealth. The five public
9 members first appointed by the Governor shall serve for terms of
10 one, two, three, four and five years, respectively.

11 (c) Term of office.--Each public member shall hold office
12 for the term of that member's appointment and until that
13 member's successor has been appointed and qualified. A member of
14 the commission may be eligible for reappointment.

15 (d) Appointment of designees.--Each ex officio member of the
16 commission may designate an officer or employee of that member's
17 department to represent the member at meetings of the
18 commission, and each designee may lawfully vote and otherwise
19 act on behalf of the member whom the designee represents. A
20 designation shall be in writing, shall be delivered to the
21 commission, shall be filed with the office of the Secretary of
22 the Commonwealth and shall continue in effect until revoked or
23 amended in the same manner as provided for designation.
24 Legislative members may delegate votes to a designee acting on
25 their behalf only after informing the chairman in writing.

26 (e) Officers.--The Secretary of Health shall be chairperson
27 and chief executive officer of the commission. The members of
28 the commission shall elect a secretary and a treasurer, who need
29 not be members of the commission and the same person may be
30 elected to serve both as secretary and treasurer.

1 (f) Quorum.--The powers of the commission shall be vested in
2 the members in office from time to time and eleven members of
3 the commission shall constitute a quorum at any meeting thereof.
4 Action may be taken and motions and resolutions may be adopted
5 by the commission at any meeting by the affirmative vote of at
6 least six members of the commission. No vacancy in the
7 membership of the commission shall impair the right of a quorum
8 to exercise all the powers and perform all the duties of the
9 commission.

10 (g) Expenses.--The members of the commission shall serve
11 without compensation, but the commission shall reimburse its
12 members for the reasonable expenses incurred in the performance
13 of their duties based upon the moneys available in the fund.

14 (h) Removal of members.--Each public or ex officio member of
15 the commission may be removed from membership of the commission
16 by the Governor, for cause, after a public hearing and may be
17 suspended by the Governor pending the completion of the hearing.
18 This subsection shall not apply to the State Treasurer.

19 (i) Oath.--Each member of the commission, before entering
20 upon that member's duties, shall take and subscribe an oath to
21 perform the duties of that member's office faithfully,
22 impartially and justly to the best of that member's ability. A
23 record of the oaths shall be filed in the office of the
24 Secretary of the Commonwealth.

25 (j) Vacancies.--A vacancy in the membership of the
26 commission occurring other than by the expiration of a term
27 shall be filled in the same manner as the original appointment,
28 but for the unexpired term only.

29 Section 6. Powers and duties of commission.

30 The commission shall:

1 (1) Establish and administer, in conjunction with the
2 Department of Health, a program for the reimbursement of
3 medical expenses of children with catastrophic illnesses.

4 (2) Administer the fund.

5 (3) Establish procedures for:

6 (i) Enrolling in the program.

7 (ii) Determining eligibility for the payment or
8 reimbursement of OUT-OF-POCKET UNCOVERED medical expenses <—
9 for each child.

10 (iii) Processing claim disputes.

11 (iv) Providing for reimbursement to the fund by the
12 family for the amount of assistance received, or that
13 portion thereof covered by the amount of the damages less
14 the expense of recovery, in the case of an illness or
15 condition for which the family, after receiving
16 assistance under this act, recovers damages for the
17 child's medical expenses under a settlement or judgment
18 in a legal action.

19 (V) NEGOTIATING PAYMENT AMOUNTS TO PROVIDERS AND <—
20 VENDORS ON BEHALF OF THE CHILD.

21 (4) Establish the amount of reimbursement ~~for the~~ AND <—
22 THE MAXIMUM REIMBURSEMENT FOR THE OUT-OF-POCKET UNCOVERED
23 medical expenses of each child using a sliding fee scale,
24 based on a family's ability to pay for medical expenses,
25 which takes into account family size, family income and
26 assets and family medical expenses.

27 (5) Adjust the financial eligibility criteria for a
28 catastrophic illness based upon the moneys available in the
29 fund.

30 (6) Disseminate information on the fund and the program

1 to the public.

2 (7) Adopt bylaws for the regulation of its affairs and
3 the conduct of its business, adopt an official seal and alter
4 the same at pleasure, maintain an office at the place within
5 this Commonwealth as it may designate, and sue and be sued in
6 its own name.

7 (8) Employ professional and clerical assistance
8 necessary to perform its duties and as may be within the
9 limits of funds appropriated or otherwise made available to
10 it for its purposes.

11 (9) Maintain confidential records on each child who
12 applies for assistance under the funds.

13 (10) Adopt rules and regulations to administer this act.

14 (11) Do all other acts and things necessary or
15 convenient to carry out the purposes of this act.

16 Section 7. Eligibility for program.

17 A UPON THE EFFECTIVE DATE OF THIS ACT, A child who is a <—
18 resident of this Commonwealth is eligible, through the child's
19 parent or legal guardian, to enroll in the program established
20 in section 6 FOR OUT-OF-POCKET COSTS INCURRED DURING THE PRIOR <—
21 CONSECUTIVE 12-MONTH PERIOD.

22 Section 8. Financial assistance from program.

23 Whenever a child has a catastrophic illness and is enrolled
24 in the program, the child, through his parent or legal guardian,
25 is eligible for financial assistance from moneys in the fund,
26 subject to the rules and regulations established by the
27 commission and the availability of moneys in the fund. The
28 financial assistance shall include, but not be limited to,
29 payments or reimbursements for the ~~cost of~~ OUT-OF-POCKET COSTS <—
30 RELATED TO A CHILD'S UNCOVERED medical treatment, hospital care,

1 drugs, nursing care and ~~physical~~ PHYSICIAN services. <—

2 Section 9. Source of funds.

3 The moneys to establish and maintain the fund shall be
4 derived from the ~~tobacco litigation master settlement agreement~~ <—

5 MASTER SETTLEMENT AGREEMENT. <—

6 Section 10. Annual report.

7 The commission shall report annually to the Governor and the
8 General Assembly. The report shall include information about:

9 (1) The number of participants in the program.

10 (2) Average expenditures per participant.

11 (3) The nature and type of catastrophic illnesses for
12 which the fund provided financial assistance.

13 (4) The average income and expenditures of families who
14 received financial assistance under the program.

15 In its report, the commission may make recommendations for
16 changes in the law governing the fund.

17 Section 11. Effective date.

18 This act shall take effect in 60 days.