PRINTER'S NO. 925

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 793 Session of 2003

INTRODUCED BY J. TAYLOR, BEBKO-JONES, BELARDI, BROWNE, BUNT, BUTKOVITZ, CORNELL, COY, DAILEY, DALEY, DALLY, DeLUCA, DeWEESE, FRANKEL, GANNON, HARHAI, HENNESSEY, HORSEY, JAMES, KELLER, KENNEY, LEDERER, LEWIS, MAITLAND, McGEEHAN, MELIO, PAYNE, PETRONE, PISTELLA, SATHER, SAYLOR, SCRIMENTI, SOLOBAY, THOMAS, TIGUE, VANCE, WALKO AND YOUNGBLOOD, MARCH 10, 2003

REFERRED TO COMMITTEE ON INSURANCE, MARCH 10, 2003

AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," providing for certain prescription drug coverage.

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

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

Section 635.2. Prescription Drug Coverage.--(a) No health insurance policy which covers prescription drug benefits shall be issued, amended, delivered, or renewed in this Commonwealth if the plan limits or excludes coverage for a drug on the basis

that the drug is prescribed for a use that is different from the use for which that drug has been approved for marketing by the FDA, provided that all of the following conditions have been met:

(1) The drug is approved by the FDA for at least one condition.

(2) The drug is prescribed by a participating licensed health care professional for the treatment of a life-threatening condition or a chronic and seriously debilitating condition.

(3) The drug has been recognized for treatment of that condition by one of the following:

(i) The American Hospital Formulary Service Drug Information.

(ii) The American Medical Association Drug Evaluations.

(iii) The United States Pharmacopoeia Drug Information, Volume 1, "Drug Information for the Health Care Professional."

(iv) The drug is supported by clinical research for the treatment of that condition in scientific, medical or pharmaceutical publications in which original manuscripts are published, only after having been critically reviewed for scientific accuracy, validity and reliability by unbiased experts.

(b) Nothing in this section shall be construed to prohibit the use of a formulary, copayment, technology assessment panel, or similar mechanism as a means for appropriately controlling utilization of a drug prescribed for a use different from the use for which the drug has been approved for marketing by the FDA.

(c) Nothing in this section shall be construed to require:

(1) coverage of a new drug or biological product not

otherwise approved for a use by the FDA;

(2) coverage of a disease or condition that is not a covered condition under the policy, subscriber contract or certificate;

(3) aggregate payments in excess of the amounts required to be paid under the policy, subscriber contract or certificate;

(4) modification of any coinsurance or copayment requirements used to manage a formulary; or

(5) coverage for FDA-approved drugs excluded from an enrollee's formulary coverage, except as such drugs may be available through any prior authorization procedures.

(d) Coverage of a drug required by this section shall include coverage of medically necessary services associated with the administration of the drug when they are covered benefits under the policy.

(e) As used in this section:

(1) "Life-threatening" means either or both of the following:

(i) diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted; or

(ii) diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(2) "Chronic and seriously debilitating" means diseases or conditions that require ongoing treatment to maintain remission or prevent deterioration and cause significant long-term morbidity.

(3) "Health insurance policy" means any individual or group health, sickness or accident insurance policy, subscriber contract or certificate issued by any entity subject to:

(i) this act;

(ii) 40 Pa.C.S. Ch. 61 (relating to hospital plan

corporations);

(iii) 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); or

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

(4) "FDA" means the Food and Drug Administration of the United States Department of Health and Human Services.

Section 2. This act shall take effect in 60 days.