

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1287

Session of
2003

INTRODUCED BY CRAHALLA, CAWLEY, CLYMER, FAIRCHILD, FEESE,
GEORGE, GODSHALL, HARPER, HENNESSEY, HERMAN, HICKERNELL, LEH,
MARSICO, McILHINNEY, R. MILLER, RUBLEY, SAINATO, SATHER,
SAYLOR, SCHRODER, B. SMITH, STEIL, E. Z. TAYLOR, TIGUE, TRUE,
WATSON, MICOZZIE AND HERSHEY, MAY 5, 2003

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 7, 2003

AN ACT

1 Establishing the Mcare Assessment Need Program.

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

4 Section 1. Short title.

5 This act shall be known and may be cited as the Mcare
6 Assessment Need Program Act.

7 Section 2. Definitions.

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

11 "Assessment." The assessment levied by the Insurance
12 Department on health care providers, established in the act of
13 March 20, 2002 (P.L.154, No.13), known as the Medical Care
14 Availability and Reduction of Error (Mcare) Act.

15 "Eligible applicant." A physician licensed in good standing

1 by the licensing board, practicing in this Commonwealth, who
2 meets the criteria established by the program administrator
3 pursuant to this act and who is not disqualified under section
4 3(d).

5 "Licensing board." The State Board of Medicine, the State
6 Board of Osteopathic Medicine or the State Board of Podiatry.

7 "Medical professional liability insurance." Insurance
8 against liability on the part of a health care provider arising
9 out of any tort or breach of contract causing injury or death
10 resulting from the furnishing of medical services which were or
11 should have been provided.

12 "Physician." An individual licensed or certified under the
13 laws of this Commonwealth by the State Board of Medicine, the
14 State Board of Osteopathic Medicine or the State Board of
15 Podiatry. The term shall include a licensed nurse midwife.

16 "Program." The Mcare Assessment Need Program established
17 under section 3(a).

18 "Program administrator." The State agency, bureau,
19 department or office designated by the Governor to administer
20 the Mcare Assessment Need Program.

21 Section 3. Mcare Assessment Need Program.

22 (a) Program established.--The Mcare Assessment Need Program
23 is hereby established to provide assessment reductions to
24 eligible applicants. The program shall apply to policies due on
25 or after January 1, 2003.

26 (b) Restricted receipts account.--There is hereby
27 established in the Treasury Department a nonlapsing restricted
28 receipts account, to be known as the Mcare Assessment Need
29 Program Account, for the purpose of funding assessment
30 reductions for eligible applicants.

1 (c) Eligibility.--To be eligible for an assessment reduction
2 under the program, a physician must submit documentation
3 including, but not limited to, the following:

4 (1) statement of earned and unearned income;

5 (2) Federal and State tax returns and supporting
6 documentation;

7 (3) documentation of paid medical professional liability
8 insurance payment, including the primary coverage and the
9 assessment;

10 (4) other information as the program administrator may
11 require; and

12 (5) Federal and State tax returns and supporting
13 documentation of the third party, if the physician's premiums
14 or surcharges are paid by a third party.

15 (d) Prohibitions.--A physician shall not be eligible for
16 participation in the program if any of the following apply:

17 (1) The physician's medical license has been revoked in
18 any state.

19 (2) The physician's license to dispense or prescribe
20 drugs or medication has been revoked in this Commonwealth or
21 any other state.

22 (3) The physician has had ~~five~~ THREE or more medical <—
23 liability claims in the past five most recent years in which
24 the judgment against the provider or settlement entered was
25 \$500,000 or more for each claim.

26 (4) The physician has been convicted or entered a plea
27 of guilty or no contest for any of the following offenses:

28 (i) A felony violation of the act of April 14, 1972
29 (P.L.233, No.64), known as The Controlled Substance,
30 Drug, Device and Cosmetic Act.

- (ii) 18 Pa.C.S. Ch. 25 (relating to criminal homicide).
- (iii) 18 Pa.C.S. § 2702 (relating to aggravated assault).
- (iv) 18 Pa.C.S. § 2709.1 (relating to stalking).
- (v) 18 Pa.C.S. Ch. 29 (relating to kidnapping).
- (vi) 18 Pa.C.S. Ch. 31 (relating to sexual offenses).
- (vii) 18 Pa.C.S. § 3301 (relating to arson and related offenses).
- (viii) 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).
- (ix) 18 Pa.C.S. Ch. 35 (relating to burglary and other criminal intrusion).
- (x) 18 Pa.C.S. Ch. 37 (relating to robbery).
- (xi) A felony violation under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses).
- (xii) 18 Pa.C.S. Ch. 59 (relating to public indecency).

(e) Program administrator duties.--The program administrator shall:

(1) Administer the program and establish procedures and forms as may be necessary to implement the program.

(2) Establish criteria to identify assessment reduction recipients from among all physicians who qualify and apply for a reduction and the amount of each reduction. The criteria shall include the amount of funds allocated to the program, the applicant's actual financial need, the community-based need for the applicant's services and the applicant's specialty classification. The program

1 administrator may establish any other criteria necessary to
2 ensure access to quality health care in all regions of this
3 Commonwealth.

4 (3) Award reductions in assessments to eligible
5 applicants by no later than 90 days after the preceding
6 calendar year for which the necessary documentation is
7 required.

8 (4) Require assessment reduction recipients to maintain
9 all necessary information in a format specified by the
10 program administrator.

11 (5) Promulgate regulations to implement this act.

12 (6) Report to the Governor and the chairman and minority
13 chairman of the Banking and Insurance Committee of the Senate
14 and the chairman and minority chairman of the Insurance
15 Committee of the House of Representatives on the reductions
16 awarded, the impact on the recipients and the amount
17 disbursed by the program. In addition to the content
18 specified in this paragraph, the report shall include any
19 other information necessary to accurately inform the public
20 about the program, demographics of eligible applicants and
21 assessment reduction recipients, the financial condition of
22 health care providers in this Commonwealth and patients'
23 access to health care in this Commonwealth. The report shall
24 be due November 30 of each year and shall be made available
25 for public inspection and posted on the program
26 administrator's publicly accessible World Wide Web site.

27 (f) Expiration.--This section shall expire January 1, 2014.

28 Section 4. Program Funding.

29 (a) Deposit.--Notwithstanding the provisions of Chapter 3 of
30 the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco

1 Settlement Act, all payments required to be deposited into the
2 Health Endowment Account for Long-Term Hope in accordance with
3 section 303(b) of the Tobacco Settlement Act, shall be deposited
4 by the Treasury Department into the Mcare Assessment Need
5 Program Account.

6 (b) Transfer of funds.--Amounts deposited in the Health
7 Endowment Account for Long-Term Hope in accordance with section
8 303(b) of the Tobacco Settlement Act after December 31, 2002,
9 and before the effective date of this section shall be
10 transferred by the State Treasurer to the Mcare Assessment Need
11 Program Account.

12 (c) Use of funds.--Amounts deposited or transferred into the
13 Mcare Assessment Need Program Account shall be used by the
14 program administrator to provide assessment reductions to
15 eligible applicants as determined under section 3.

16 (d) Expiration.--This section shall expire January 1, 2014.
17 Section 5. Reimbursement of the Health Endowment Account for
18 Long-Term Hope.

19 Notwithstanding the provisions of 75 Pa.C.S. § 6506(b)
20 (relating to surcharge) and section 712(m) of the act of March
21 20, 2002 (P.L.154, No.13), known as the Medical Care
22 Availability and Reduction of Error (Mcare) Act, all surcharges
23 levied and collected under 75 Pa.C.S. § 6506(a) by any division
24 of the unified judicial system shall be remitted to the
25 Commonwealth for deposit in the Health Endowment Account for
26 Long-Term Hope established under Chapter 3 of the act of June
27 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.
28 The deposits required by this section shall continue in effect
29 until the State Treasurer certifies to the Governor that the
30 Health Endowment Account for Long-Term Hope has been reimbursed

1 for all amounts deposited in the Mcare Assessment Need Program
2 Account pursuant to section 4 plus interest. After certification
3 by the State Treasurer, the surcharges levied and collected
4 under 75 Pa.C.S. § 6506(a) shall be deposited into the General
5 Fund.

6 Section 6. Interim regulations.

7 The program administrator shall promulgate interim
8 regulations to implement the program within 90 days of the
9 effective date of this section. The interim regulations shall
10 expire after two years or upon the adoption of final
11 regulations, whichever is earlier. The interim regulations shall
12 not be subject to section 201 or 205 of the act of July 31, 1968
13 (P.L.769, No.240), referred to as the Commonwealth Documents
14 Law.

15 Section 7. Effective date.

16 This act shall take effect as follows:

17 (1) Section 5 shall take effect January 1, 2014.

18 (2) The remainder of this act shall take effect
19 immediately.