

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1224 Session of  
2011

INTRODUCED BY YAW, RAFFERTY, ERICKSON, SCHWANK, GREENLEAF,  
MENSCH AND EARLL, OCTOBER 18, 2011

REFERRED TO BANKING AND INSURANCE, OCTOBER 18, 2011

AN ACT

1 Providing for credentialing of physicians by health insurers,  
2 for physician payment during credentialing process and for  
3 the powers and duties of the Department of Health;  
4 establishing a private right of action; and prescribing  
5 administrative fines.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Health  
10 Insurer Physician Credentialing Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) An equitable and expeditious initial physician  
14 credentialing process is essential to the financial stability  
15 of this Commonwealth's health insurers and health care  
16 providers and ultimately to the well-being of patients and  
17 consumers by ensuring access to health care services.

18 (2) This act is intended to promote fairness to this  
19 Commonwealth's health care providers by ensuring that health

1 insurers conduct physician credentialing in a reasonable time  
2 frame and reimburse physicians during the credentialing  
3 process.

4 (3) This act is a necessary and proper exercise of the  
5 authority of the Commonwealth to protect the public health  
6 and to regulate the business of insurance and the practice of  
7 medicine.

8 Section 3. Definitions.

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

12 "Council." The Council for Affordable Quality Health Care or  
13 a successor entity that is a nonprofit alliance of health plans  
14 and trade associations facilitating administrative health care  
15 information exchange.

16 "Department." The Department of Health of the Commonwealth.

17 "Enrollee." A policyholder, subscriber, covered person,  
18 covered dependent, spouse or other person who is entitled to  
19 receive health care benefits from a health insurer.

20 "Health insurer." An entity that contracts or offers to  
21 contract to provide, deliver, arrange for, pay for or reimburse  
22 any of the costs of health care services in exchange for a  
23 premium, including an entity licensed under any of the  
24 following:

25 (1) The act of May 17, 1921 (P.L.682, No.284), known as  
26 The Insurance Company Law of 1921, including section 630 and  
27 Article XXIV.

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

30 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan

corporations).

(4) 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations).

"Hospital-based physician." A physician who provides clinical support within a hospital. The term includes, but is not limited to, an anesthesiologist, pathologist, radiologist, neonatologist, hospitalist and emergency room physician.

"Participating provider." A physician who enters into a provider contract with a health insurer and is on the health insurer's physician provider panel.

"Physician provider panel." A group of physicians who contract either directly or through a subcontracting entity with a health insurer to provide health care services to the health plan's enrollees under the health plan's health benefit plan.

#### Section 4. Initial physician credentialing.

(a) General rule.--A health insurer and physician shall adhere to the following minimum standards to facilitate the initial physician credentialing process:

(1) A physician who seeks to participate on a physician provider panel of a health insurer must submit an application to the health insurer.

(2) A health insurer shall complete the credentialing process for all initial physician credentialing applications submitted by or on behalf of a physician applicant within 60 days of receipt of a complete application. An application shall be considered complete for the purpose of this act if:

(i) the application is submitted through the council's electronic process described under section 6;

or

(ii) the physician materially completes responses to

each question on the application and each of the following requirements are satisfied or submitted:

(A) the application form is signed and appropriately dated by the physician applicant;

(B) a current curriculum vitae or work/education history;

(C) copies of the physician applicant's current licenses in all states in which the physician holds a license, regardless of the address on the licenses;

(D) a copy of the physician applicant's current Drug Enforcement Administration controlled substance certificate, regardless of the address on the certificate; and

(E) a copy of the physician applicant's current malpractice face sheet coverage statement, including amounts and dates of coverage, regardless of the current or future dates of coverage.

(3) If a physician applicant is board eligible, the health insurer may request documentation of board certification or eligibility. Absence of this documentation shall not restrict the application from being considered complete for the purpose of this act.

(4) The health insurer shall report to a physician applicant, at the address provided in the initial credentialing application, the status of a submitted initial physician credentialing application within five business days from the date of receipt by the health insurer. The report shall include, but not be limited to, the health insurer's intent to continue to process the physician's application, application receipt date, next meeting date of the health

1 plan's credentialing review committee at which the  
2 application will be considered and, if the application is  
3 incomplete because it does not satisfy the minimum  
4 requirements established in paragraph (2), an itemization of  
5 all missing or incomplete items. After the health insurer  
6 receives the completed application in accordance with  
7 paragraph (2), the health insurer shall be subject to the  
8 time periods established in paragraph (2).

9 (5) The failure of a health insurer to provide the  
10 report required under paragraph (4) is a violation of this  
11 act, and the health insurer shall be subject to the  
12 provisions of and penalties provided under section 7.

13 (6) A health insurer shall notify a physician applicant  
14 of the health insurer's decision on an initial credentialing  
15 application within five business days of the decision. The  
16 notice shall include the committee's decision, the decision  
17 date and, if not favorable to the applicant, the rationale  
18 for the decision.

19 (b) Inapplicability.--

20 (1) The credentialing and recredentialing by health  
21 insurers of hospital-based physicians, unless the hospital-  
22 based physician maintains a medical practice independent of  
23 the hospital with which the physician contracts.

24 (2) The credentialing and recredentialing functions that  
25 have been delegated to other entities by the health plan.

26 Section 5. Physician payment during credentialing process.

27 (1) A physician applicant notified by a health insurer  
28 of the health insurer's intent to pursue the credentialing  
29 process in accordance with section 4(a)(4) shall be eligible  
30 for reimbursement within 15 calendar days from the postmarked

1 date on the physician's application.

2 (2) The health insurer shall reimburse the physician  
3 based upon the health insurer's fee schedule rates applicable  
4 to nonparticipating physicians. Reimbursement shall be paid  
5 by the health insurer to the physician at the health  
6 insurer's nonparticipating physician rate for services  
7 rendered from the date that appears on the health insurer  
8 notice to the physician as required under section 4(a)(4)  
9 through and including the date the health insurer sends the  
10 required notice under section 4(a)(6).

11 (3) A physician applicant who contracts with a medical  
12 group practice and who receives the notification from a  
13 health insurer pursuant to section 4(a)(4) shall be eligible  
14 to receive reimbursement at the medical group's actual  
15 contracted rate for claims paid to the physician's contracted  
16 medical group practice within 15 calendar days from the  
17 postmarked date on the physician's application if:

18 (i) The physician is employed by or is a member of  
19 the participating group practice.

20 (ii) The physician has applied for acceptance on the  
21 health insurer's participating provider panel.

22 (iii) The physician has a valid license issued by  
23 the State Board of Medicine or the State Board of  
24 Osteopathic Medicine.

25 (iv) The physician has proof of valid professional  
26 liability insurance coverage.

27 (4) A health insurer that sends written notice rejecting  
28 the physician's credentialing application pursuant to section  
29 4(a)(6) shall not be under any obligation to provide any  
30 reimbursement to the physician applicant unless the physician

1 subsequently becomes credentialed.

2 (5) A health insurer may not deny payment to a physician  
3 under this section solely because the physician was not a  
4 participating provider at the time the services were provided  
5 to an enrollee.

6 (6) A physician who is not a participating provider of a  
7 health insurer and whose group practice is eligible for  
8 reimbursement under paragraph (2) may not hold an enrollee of  
9 the health insurer liable for the cost of any covered  
10 services provided to the enrollee during the time period  
11 described in section 4(a)(2), except for any noncovered  
12 service, deductible, copayment or coinsurance amount owed by  
13 the enrollee to the group practice or physician under the  
14 terms of the enrollee's contract or certificate.

15 (7) A group practice may disclose in writing to an  
16 enrollee at the time services are provided that:

17 (i) The treating physician is not a participating  
18 provider.

19 (ii) The treating physician has applied to become a  
20 participating provider.

21 (iii) The health insurer has not completed its  
22 assessment of the credentials of the treating physician  
23 to provide services as a participating provider.

24 (8) The disclosure process may continue until the  
25 credentialing process is complete as described in section  
26 4(a)(6).

27 (9) A health plan may assign individual provider numbers  
28 to physicians for their internal use, but the assignment of  
29 such numbers shall not be a prerequisite for processing and  
30 paying claims. The physician's National Provider Identifier

(NPI) number shall suffice as the individual provider identifier required to process and pay claims.

Section 6. Alternative submission.

A health insurer shall be required to accept an application developed by the council when submitted by a physician for participation in the health insurer's provider panel.

Section 7. Private right of action.

(a) General rule.--A physician aggrieved by a health insurer's violation of this act shall have a private right of action in a court of competent jurisdiction to secure all available remedies at law and in equity to remedy the health insurer's violation.

(b) Administrative penalty.--In addition to any other remedy available at law or in equity, the Insurance Department shall assess an administrative penalty for a violation of this act following notice and an opportunity to be heard. The penalty shall not exceed \$5,000 per violation.

Section 8. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 9. Appeals.

A physician applicant has the right to appeal any rejection by the health insurer subsequent to receipt of the rejection letter sent by the insurer pursuant to section 4(a)(6) as follows:

(1) The physician's right to repeal a rejection by the health insurer shall be limited to the following



1 circumstances:

2 (i) The health insurer rejected the physician's  
3 application because the physician discussed with a  
4 patient or any person:

5 (A) the process that the health insurer uses or  
6 proposes to use to deny payment for a health care  
7 service;

8 (B) medically necessary and appropriate care  
9 with or on behalf of a patient, including information  
10 regarding the nature of treatment, risks of  
11 treatment, alternative treatments or the availability  
12 of alternative therapies, consultation or tests; or

13 (C) the decision of any health insurer to deny  
14 payment for a health care service;

15 (ii) the physician applicant has a practice or  
16 intends to join a medical group practice that includes a  
17 substantial number of patients with expensive medical  
18 conditions; or

19 (iii) the physician objects to the provision of or  
20 refuses to provide a health care service on moral or  
21 religious grounds.

22 (2) Within 45 days of receipt of a denial letter by the  
23 health insurer rejecting a physician's enrollment  
24 application, a physician applicant or designee may file an  
25 appeal to the Secretary of Health. The Secretary of Health  
26 shall have 45 days to make a final determination regarding  
27 the physician applicant's credentialing status and  
28 participation as a network provider based upon the standards  
29 specified in paragraph (1). The Secretary of Health shall  
30 send notification of the decision by certified mail to the

1       physician applicant or designee and the health insurer within  
2       45 days of receipt of the appeal letter.

3   Section 10.   Rules and regulations.

4       The department shall promulgate rules and regulations to  
5   administer and enforce this act.

6   Section 11.   Repeals.

7       All acts and parts of acts are repealed insofar as they are  
8   inconsistent with this act.

9   Section 12.   Effective date.

10       This act shall take effect in 60 days.