
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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COHEN, SABATINA, GOODMAN AND KORTZ, NOVEMBER 21, 2013

REFERRED TO COMMITTEE ON INSURANCE, NOVEMBER 21, 2013

AN ACT

1 Providing for registration of discount plan organizations; and
2 imposing penalties.

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

11 Section 1. Short title.

12 This act shall be known and may be cited as the Discount Plan
13 Organization Act.

14 Section 2. Purpose.

15 The purpose of this act is to promote the public interest by
16 establishing standards for discount medical plan and discount
17 prescription drug plan organizations to protect consumers from
18 unfair or deceptive marketing, sales or enrollment practices and
19 to facilitate consumer understanding of the role and function of
20 discount medical plan organizations in providing access to
21 medical or ancillary services and the role and function of
22 discount prescription drug plan organizations in providing
23 access to pharmacy services.

24 Section 3. Definitions.

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

28 "Affiliate." A person that directly or indirectly, through
29 one or more intermediaries, controls, is controlled by or is
30 under common control with the person specified.

1 "Ancillary services." Services that include, but are not
2 limited to, audiology, dental, vision, mental health, substance
3 abuse, chiropractic and podiatry services. The term does not
4 include pharmacy services.

5 "Applicant." A person or entity applying to do business in
6 this State as a discount plan organization.

7 "Commissioner." The Insurance Commissioner of the
8 Commonwealth.

9 "Control," "controlled by" or "under common control with."
10 The terms shall have the meanings given in section 1401 of the
11 act of May 17, 1921 (P.L.682, No.284), known as The Insurance
12 Company Law of 1921.

13 "Department." The Insurance Department of the Commonwealth.

14 "Discount medical plan." A business arrangement or contract
15 in which a person, in exchange for fees, dues, charges or other
16 consideration, offers or purports to offer access for plan
17 members to providers of medical or ancillary services and the
18 right to receive discounts on medical or ancillary services from
19 those providers. The term does not include:

20 (1) a plan that does not charge a membership or other
21 fee to use the plan's discount medical card; or

22 (2) any product otherwise regulated under the laws of
23 this Commonwealth regulating health insurers.

24 "Discount medical plan organization." An entity that, in
25 exchange for fees, dues, charges or other consideration, offers
26 or purports to offer a discount medical plan to plan members and
27 that contracts with a provider, a provider network or another
28 discount medical plan organization to offer the discount medical
29 plan and determines the charge to plan members.

30 "Discount plan." A discount medical plan or a discount

1 prescription drug plan.

2 "Discount plan organization." A discount medical plan
3 organization or a discount prescription drug plan organization.

4 "Discount prescription drug plan." A business arrangement or
5 contract in which a person, in exchange for fees, dues, charges
6 or other consideration, offers or purports to offer access for
7 plan members to providers of pharmacy services and the right to
8 receive discounts on pharmacy services from those providers.

9 The term does not include:

10 (1) a plan that does not charge a membership or other
11 fee to use the plan's discount prescription drug card;

12 (2) a patient access program; or

13 (3) a Medicare prescription drug plan or the PACE and
14 PACENET program established under Chapters 5 and 7 of the act
15 of August 26, 1971 (P.L.351, No.91), known as the State
16 Lottery Law.

17 "Discount prescription drug plan organization." An entity
18 that, in exchange for fees, dues, charges or other
19 consideration, offers or purports to offer access for plan
20 members to providers of pharmacy services and the right to
21 receive pharmacy services from those providers at a discount and
22 that contracts with a provider, a pharmacy network or another
23 discount prescription drug plan organization to offer the
24 discount prescription drug plan and determines the charge to
25 plan members.

26 "Facility." An institution providing medical or ancillary
27 services in a health care setting. The term includes, but is not
28 limited to:

29 (1) a hospital or other licensed inpatient center;

30 (2) an ambulatory surgical or treatment center;

- 1 (3) a skilled nursing center;
- 2 (4) a residential treatment center;
- 3 (5) a rehabilitation center; and
- 4 (6) a diagnostic, laboratory or imaging center.

5 "Health care professional." A physician, pharmacist or other
6 health care practitioner who is licensed, accredited or
7 certified to perform specified medical or ancillary services or
8 pharmacy services within the scope of his or her license,
9 accreditation, certification or other appropriate authority and
10 consistent with State law.

11 "Health insurer." A company or health insurance entity
12 licensed in this Commonwealth to issue an individual or group
13 health, sickness or accident policy or subscriber contract or
14 certificate or plan that provides medical or health care
15 coverage by a health care facility or licensed health care
16 provider that is offered or governed under any of the following:

17 (1) Article XXIV or another provision of the act of May
18 17, 1921, (P.L.682, No.284), known as The Insurance Company
19 Law of 1921.

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

22 (3) The act of May 18, 1976 (P.L.123, No.54), known as
23 the Individual Accident and Sickness Insurance Minimum
24 Standards Act.

25 (4) 40 Pa.C.S. Ch. 61 (relating to hospital plan
26 corporations) or Ch. 63 (relating to professional health
27 services plan corporations).

28 "Marketer." A person or entity that markets, promotes, sells
29 or distributes a discount plan, including a private label entity
30 that places its name on and markets or distributes a discount

1 plan pursuant to a marketing agreement with a discount plan
2 organization.

3 "Medical services." Maintenance care of or preventive care
4 for the human body or care, service or treatment of an illness
5 or dysfunction of or injury to the human body. The term
6 includes, but is not limited to, physician care, inpatient care,
7 hospital surgical services, emergency services, ambulance
8 services, laboratory services and medical equipment and
9 supplies. The term does not include pharmacy services or
10 ancillary services.

11 "Medicare prescription drug plan." A plan that provides a
12 Medicare Part D prescription drug benefit in accordance with the
13 requirements of the Medicare Prescription Drug, Improvement, and
14 Modernization Act of 2003 (Public Law 108-172, 117 Stat. 2066)
15 and the Medicare Improvements for Patients and Providers Act of
16 2008 (Public Law 110-275, 122 Stat. 2494).

17 "Member." An individual who pays fees, dues, charges or
18 other consideration in exchange for the right to receive the
19 benefits of a discount plan. The term does not include any
20 individual who enrolls in a patient access program.

21 "Patient access program." A voluntary program sponsored by a
22 pharmaceutical manufacturer, or a consortium of pharmaceutical
23 manufacturers, that provides free or discounted health care
24 products directly to low-income or uninsured individuals either
25 through a discount card or direct shipment.

26 "Person." An individual, a corporation, a partnership, an
27 association, a joint venture, a joint stock company, a trust, an
28 unincorporated organization, any similar entity or any
29 combination of the foregoing.

30 "Pharmacy services." Pharmaceutical supplies and

1 prescription drugs.

2 "Provider." A health care professional or facility that has
3 contracted, directly or indirectly, with a discount medical plan
4 organization to provide medical or ancillary services to members
5 or with a discount prescription drug plan organization to
6 provide pharmacy services to members.

7 "Provider network." An entity that negotiates directly or
8 indirectly with a discount medical plan organization on behalf
9 of more than one provider to provide medical or ancillary
10 services to members or with a discount prescription drug plan
11 organization on behalf of more than one provider to provide
12 pharmacy services to members.

13 Section 4. Scope and applicability.

14 (a) Scope.--This act applies to all discount plan
15 organizations doing business in this Commonwealth.

16 (b) Applicability.--A discount plan organization that is a
17 health insurer:

18 (1) is not required to obtain a certificate of
19 registration under section 5, except that it or any of its
20 subsidiaries or affiliates that operate as a discount plan
21 organization in this State shall obtain a certificate of
22 registration under section 5 and comply with all other
23 provisions of this act; but

24 (2) is required to comply with sections 9, 10, 11, 12
25 and 13 and report, in the form and manner the department may
26 require, any of the information described in section 15(b)
27 (2), (3) or (4) that is not otherwise already reported.

28 Section 5. Registration requirements.

29 (a) General rule.--Before doing business in this
30 Commonwealth as a discount plan organization, a person shall:

1 (1) be authorized to transact business in this
2 Commonwealth under this act; and

3 (2) obtain a certificate of registration from the
4 department to operate as a discount plan organization.

5 (b) Application.--An application or renewal application for
6 a certificate of registration to operate as a discount plan
7 organization shall:

8 (1) be in a form prescribed by the department and
9 published in the Pennsylvania Bulletin;

10 (2) be verified by an officer or authorized
11 representative of the applicant;

12 (3) be accompanied by a fee in an amount equal to that
13 required for a license or annual renewal for a manager or
14 exclusive general agent for a domestic insurance company, as
15 specified in section 612-A(4) of the act of April 9, 1929
16 (P.L.177, No.175), known as The Administrative Code of 1929;

17 (4) include information on whether:

18 (i) a previous application for a certificate of
19 registration or licensure has been denied, revoked,
20 suspended or terminated for cause;

21 (ii) the applicant is under investigation for or the
22 subject of any pending action or has been found in
23 violation of any statute or regulation in any
24 jurisdiction within the previous five years;

25 (iii) the applicant has established an Internet
26 website to conform to the requirements of section 11(b);
27 and

28 (5) include information, as the department may require,
29 that permits the department, after reviewing all of the
30 information submitted pursuant to this subsection, to make a

determination that the applicant:

(i) is financially responsible;

(ii) has adequate expertise or experience to operate
a discount plan organization; and

(iii) is of good character.

(c) Review of application.--After the receipt of an
application filed under subsection (b), the department shall
review the application and notify the applicant of any
deficiencies in the application.

(d) Decision on application.--Within 90 days after the date
of receipt of a completed application, the department shall:

(1) issue a certificate of registration if the
department is satisfied that the applicant:

(i) met the requirements of subsection (b); and

(ii) has the required minimum capital in accordance
with section 6; or

(2) disapprove the application and state the grounds for
disapproval.

(e) Internet website.--Prior to issuance of a certificate of
registration by the department, a discount plan organization
shall establish an Internet website in order to conform to the
requirements of section 11(b).

(f) Certificate of registration.--

(1) A certificate of registration is effective for one
year, unless, prior to its expiration, it is renewed in
accordance with this subsection or suspended or revoked in
accordance with subsection (g).

(2) At least 90 days before a certificate of
registration expires, a discount plan organization shall
submit:

1 (i) a renewal application form; and

2 (ii) the renewal fee.

3 (3) The department shall renew the certificate of
4 registration of each holder that meets the requirements of
5 this act and pays the appropriate renewal fee required by
6 this act.

7 (g) Suspension, nonrenewal and revocation.--

8 (1) The commissioner may suspend the authority of a
9 discount plan organization to enroll new members or refuse to
10 renew or revoke a discount plan organization's certificate of
11 registration if the commissioner finds that any of the
12 following conditions exist:

13 (i) the discount plan organization is not operating
14 in compliance with this act;

15 (ii) the discount plan organization does not have
16 the minimum net worth as required under section 6;

17 (iii) the discount plan organization has advertised,
18 merchandised or attempted to merchandise its services in
19 such a manner as to misrepresent its services or capacity
20 for service or has engaged in deceptive, misleading or
21 unfair practices with respect to advertising or
22 merchandising; or

23 (iv) the continued operation of the discount plan
24 organization would be hazardous to its members.

25 (2) If the department has cause to believe that grounds
26 for the nonrenewal, suspension or revocation of a certificate
27 of registration exists, the department shall notify the
28 discount plan organization in writing, specifically stating
29 the grounds for the refusal to renew or suspension or
30 revocation and informing the discount plan organization that

1 it may pursue a hearing on the matter in accordance with the
2 provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice
3 and procedure of Commonwealth agencies).

4 (3) When the certificate of registration of a discount
5 plan organization is suspended, revoked or not renewed, the
6 discount plan organization shall proceed, immediately
7 following the effective date of the order of revocation or,
8 in the case of a nonrenewal, the date of expiration of the
9 certificate of registration, to wind up its affairs
10 transacted under the certificate of registration. The
11 discount plan organization shall not engage in any further
12 advertising, solicitation, collecting of fees or renewal of
13 contracts.

14 (4) (i) The commissioner shall, in his order suspending
15 the authority of the discount plan organization to enroll
16 new members, specify the period during which the
17 suspension is to be in effect and the conditions, if any,
18 that must be met by the discount plan organization prior
19 to reinstatement of its certificate of registration to
20 enroll members.

21 (ii) The commissioner may rescind or modify the
22 order of suspension prior to the expiration of the
23 suspension period.

24 (iii) The certificate of registration of a discount
25 plan organization shall not be reinstated unless
26 requested by the discount plan organization. The
27 commissioner shall not grant the request for
28 reinstatement if the commissioner finds that the
29 circumstances for which the suspension occurred still
30 exist or are likely to recur.

1 (h) Penalty.--In lieu of suspending or revoking a discount
2 plan organization's certificate of registration under subsection
3 (g), whenever the discount plan organization has been found to
4 have violated any provision of this act, the commissioner may:

5 (1) issue and cause to be served upon the organization
6 charged with the violation a copy of the findings and an
7 order requiring the organization to cease and desist from
8 engaging in the act or practice that constitutes the
9 violation; and

10 (2) impose a monetary penalty of not more than \$5,000
11 for each violation.

12 (i) Notice of action in other jurisdiction.--A discount plan
13 organization shall notify the department within ten days
14 whenever the discount plan organization's certificate of
15 registration, or other form of authority, to operate as a
16 discount plan organization in another jurisdiction is suspended,
17 revoked or nonrenewed in that jurisdiction.

18 (j) Exemption.--A provider who provides discounts to his or
19 her own patients without any cost or fee of any kind to the
20 patient for medical services or ancillary services the provider
21 directly provides is not required to obtain and maintain a
22 certificate of registration under this act as a discount medical
23 plan organization.

24 Section 6. Minimum capital requirements.

25 (a) Minimum capital requirement for applicant.--Before the
26 department issues a certificate of registration to any person
27 required to obtain a certificate of registration under section
28 5, the person seeking to operate a discount plan organization
29 shall have a net worth of at least \$150,000.

30 (b) Minimum capital requirement for registrant.--A discount

1 plan organization shall at all times maintain a net worth of at
2 least \$150,000.

3 (c) Adjustment.--At the commissioner's discretion, the
4 amounts in subsections (a) and (b) may be adjusted annually for
5 inflation.

6 Section 7. Surety bond or deposit requirements.

7 (a) Surety bond.--A registered discount plan organization
8 shall maintain in force a surety bond in its own name in an
9 amount not less than \$35,000 to be used in the discretion of the
10 commissioner to protect the financial interest of members. The
11 bond shall be issued by an insurance company licensed to do
12 business in this Commonwealth.

13 (b) Deposit.--In lieu of the bond specified in subsection
14 (a), a registered discount plan organization may deposit and
15 maintain deposited with the department, or at the discretion of
16 the commissioner, with any organization or trustee acceptable to
17 the commissioner through which a custodial or controlled account
18 is utilized, cash, securities or any combination of these or
19 other measures that are acceptable to the commissioner with at
20 all times having a market value of not less than \$35,000.

21 (c) Income on deposit.--All income from a deposit made under
22 subsection (b) shall be an asset of the discount plan
23 organization.

24 (d) Exemption from levy.--Except for the commissioner, the
25 assets or securities held in this Commonwealth as a deposit
26 under subsection (a) or (b) shall not be subject to levy by a
27 judgment creditor or other claimant of the discount plan
28 organization.

29 (e) Adjustment.--At the commissioner's discretion, the
30 amounts in subsections (a) and (b) may be adjusted annually for

1 inflation.

2 Section 8. Examinations and investigations.

3 (a) General rule.--The department and any of its examiners
4 may examine or investigate the business and affairs of any
5 discount plan organization to protect the interests of the
6 residents of this State based on the following reasons,
7 including, but not limited to, complaint indices, recent
8 complaints, information from other states or as the commissioner
9 deems necessary.

10 (b) Conduct of examinations.--An examination or
11 investigation conducted as provided in subsection (a) shall be
12 performed in accordance with the provisions of Article IX of the
13 act of May 17, 1921 (P.L.789, No.285), known as The Insurance
14 Department Act of 1921.

15 (c) Discovery.--The department or any of its examiners may:

16 (1) order any discount plan organization or applicant
17 that operates or any applicant that anticipates operating a
18 discount plan organization to produce any records, books,
19 files, advertising and solicitation materials or other
20 information; and

21 (2) take statements under oath to determine whether the
22 discount plan organization or applicant is in violation of
23 the law or is acting contrary to the public interest.

24 (d) Expenses.--A discount plan organization or applicant
25 that is the subject of the examination or investigation shall
26 pay the expenses incurred in conducting the examination or
27 investigation. Failure by the discount plan organization or
28 applicant to pay the expenses is grounds for denial of a
29 certificate of registration to operate as a discount plan
30 organization or revocation of a certificate of registration to

1 operate as a discount plan organization.

2 Section 9. Charges and fees, refund requirements and bundling
3 of services.

4 (a) Charges and fees.--A discount plan organization may
5 charge a periodic charge as well as a reasonable one-time
6 processing fee for a discount plan.

7 (b) Refund requirements.--

8 (1) (i) If a member cancels his or her membership in a
9 discount plan organization within the first 30 days after
10 the date of receipt of the written document for the
11 discount plan described in section 13(d), the member
12 shall receive a reimbursement of all periodic charges and
13 the amount of any one-time processing fee that exceeds
14 \$30 upon return of the discount plan card to the discount
15 plan organization.

16 (ii) Cancellation occurs when notice of cancellation
17 is given to the discount plan organization. Notice of
18 cancellation is deemed given when delivered by hand or
19 deposited in a mailbox, properly addressed and postage
20 prepaid to the mailing address of the discount plan
21 organization or e-mailed to the e-mail address of the
22 discount plan organization.

23 (iii) A discount plan organization shall return any
24 periodic charge charged or collected after the member has
25 returned the discount plan card or given the discount
26 plan organization notice of cancellation.

27 (2) If the discount plan organization cancels a
28 membership for any reason other than nonpayment of charges by
29 the member, the discount plan organization shall make a pro
30 rata reimbursement of all periodic charges to the member.

1 (c) Bundling of services.--When a marketer or discount plan
2 organization sells a discount plan in conjunction with any other
3 products, the marketer or discount plan organization shall:

4 (1) provide the charges for each discount plan in
5 writing to the member; or

6 (2) reimburse the member for all periodic charges for
7 the discount plan and all periodic charges for any other
8 product if the member cancels his or her membership in
9 accordance with subsection (b) (1).

10 (d) Exemption.--Any discount plan organization that is a
11 health insurer that provides a discount plan product that is
12 incidental to an insurance product offered by the health insurer
13 is not subject to this section.

14 Section 10. Charge and form filing requirements.

15 (a) List of fees and charges.--A discount plan organization
16 shall file with the department a list of all prospective member
17 fees and charges associated with the discount plan.

18 (b) Forms.--In addition to the information required under
19 subsection (a), a discount plan organization shall file all
20 forms, including the form for the written document described
21 under section 13(d), to be used by a discount plan organization
22 with the department prior to use. Each form filed shall be
23 identified in the manner as may be required by the department.

24 Section 11. Provider agreements and provider listing
25 requirements.

26 (a) Provider agreements.--

27 (1) A discount medical plan organization shall have a
28 written provider agreement with all providers offering
29 medical or ancillary services to its members. A discount
30 prescription drug plan organization shall have a written

1 provider agreement with all providers offering pharmacy
2 services to its members. The written provider agreement may
3 be entered into directly with the provider or indirectly with
4 a provider network to which the provider belongs.

5 (2) A provider agreement between a discount plan
6 organization and a provider shall provide the following:

7 (i) a list of the services to be provided at a
8 discount;

9 (ii) the amount or amounts of the discounts or,
10 alternatively, a fee schedule that reflects the
11 provider's discounted rates; and

12 (iii) that the provider will not charge members more
13 than the discounted rates.

14 (3) A provider agreement between a discount plan
15 organization and a provider network shall require that the
16 provider network have written agreements with its providers
17 that:

18 (i) contain the provisions described in paragraph
19 (2);

20 (ii) authorize the provider network to contract with
21 the discount plan organization on behalf of the provider;
22 and

23 (iii) require the provider network to maintain an
24 up-to-date list of its contracted providers and to
25 provide the list on a monthly basis to the discount plan
26 organization.

27 (4) A provider agreement between a discount plan
28 organization and an entity that contracts with a provider
29 network shall require that the entity, in its contract with
30 the provider network, require the provider network to have

1 written agreements with its providers that comply with
2 paragraph (3).

3 (5) The discount plan organization shall maintain a copy
4 of each active provider agreement into which it has entered.

5 (b) Provider listing requirements.--

6 (1) A discount plan organization shall maintain on an
7 Internet website an up-to-date list of the names and
8 addresses of the providers with which it has contracted
9 directly or through a provider network. The Internet website
10 address shall be prominently displayed on all of its
11 advertisements, marketing materials, brochures and discount
12 plan cards.

13 (2) This subsection applies to providers that the
14 discount plan organization has contracted with directly as
15 well as providers that are members of a provider network with
16 which the discount plan organization has contracted.

17 Section 12. Marketing requirements.

18 (a) General rule.--A discount plan organization may market
19 directly or contract with other marketers for the distribution
20 of its product.

21 (b) Marketing agreement.--

22 (1) A discount plan organization shall have an executed
23 written agreement with a marketer prior to the marketer's
24 marketing, promoting, selling or distributing the discount
25 plan.

26 (2) An agreement between a discount plan organization
27 and the marketer shall prohibit a marketer from using
28 advertising, marketing materials, brochures and discount plan
29 cards without the discount plan organization's approval in
30 writing.

1 (3) A discount plan organization shall be bound by and
2 responsible for the activities of a marketer that are within
3 the scope of the marketer's agency relationship with the
4 organization.

5 (c) Approval of marketing materials.--A discount plan
6 organization shall approve in writing all advertisements,
7 marketing materials, brochures and discount cards used by
8 marketers to market, promote, sell or distribute the discount
9 plan prior to their use.

10 (d) Filing requirement.--Upon request, a discount plan
11 organization shall submit to the commissioner all advertising,
12 marketing materials and brochures regarding a discount plan.

13 Section 13. Marketing restrictions and disclosure requirements.

14 (a) General rule.--

15 (1) All advertisements, marketing materials, brochures,
16 discount plan cards and any other communications of a
17 discount plan organization provided to prospective members
18 and members shall be truthful and not misleading in fact or
19 in implication.

20 (2) An advertisement, any marketing material, brochure,
21 discount plan card or other communication is misleading in
22 fact or in implication if it has a capacity or tendency to
23 mislead or deceive based on the overall impression that it is
24 reasonably expected to create within the segment of the
25 public to which it is directed.

26 (b) Restrictions.--A discount plan organization shall not:

27 (1) except as otherwise provided in this act or as a
28 disclaimer of any relationship between discount plan benefits
29 and insurance, or as a description of an insurance product
30 connected with a discount plan, use in its advertisements,

1 marketing material, brochures and discount plan cards the
2 term "insurance";

3 (2) except as otherwise provided under State law,
4 describe or characterize the discount plan as being insurance
5 whenever a discount plan is bundled with an insurance product
6 and the insurance benefits are incidental to the discount
7 plan benefits;

8 (3) use in its advertisements, marketing material,
9 brochures or discount plan cards the terms "health plan,"
10 "coverage," "copay," "copayments," "deductible," "preexisting
11 conditions," "guaranteed issue," "premium," "PPO," "preferred
12 provider organization" or other terms in a manner that could
13 reasonably mislead an individual into believing that the
14 discount plan is health insurance;

15 (4) use language in its advertisements, marketing
16 material, brochures and discount plan cards with respect to
17 being registered by the department in a manner that could
18 reasonably mislead an individual into believing that the
19 discount plan is insurance or has been endorsed by the
20 Commonwealth;

21 (5) make misleading, deceptive or fraudulent
22 representations regarding the discount or range of discounts
23 offered by the discount plan card or the access to any range
24 of discounts offered by the discount plan card;

25 (6) have restrictions on access to discount plan
26 providers, including, except for hospital services, waiting
27 periods and notification periods; or

28 (7) pay providers any fees for services or collect or
29 accept money from a member to pay a provider for services
30 provided under the discount plan, unless the discount plan

1 organization has an active certificate of authority to act as
2 a third party administrator under Article VIII of the act of
3 May 17, 1921 (P.L.789, No. 285), known as The Insurance
4 Department Act of 1921.

5 (c) General disclosures.--

6 (1) A discount plan organization shall make the
7 following general disclosures along with any enrollment forms
8 given to a prospective member:

9 (i) that the plan is a discount plan and is not
10 insurance coverage;

11 (ii) that the range of discounts for services
12 provided under the plan will vary depending on the type
13 of provider and service received;

14 (iii) unless the discount plan organization has an
15 active certificate of authority to act as a third party
16 administrator as described in subsection (b)(7), that the
17 plan does not make payments to providers for the services
18 received under the discount plan;

19 (iv) that the plan member is obligated to pay for
20 all services, but will receive a discount from those
21 providers that have contracted with the discount plan
22 organization; and

23 (v) the toll-free telephone number and Internet
24 website address for the registered discount plan
25 organization for prospective members and members to
26 obtain additional information about and assistance on the
27 discount plan and up-to-date lists of providers
28 participating in the discount plan.

29 The disclosures shall be made in writing in not less than 12-
30 point font and shall appear on the first content page of any

1 advertisements, marketing materials or brochures made
2 available to the public relating to a discount plan.

3 (2) If the initial contact with a prospective member is
4 by telephone, the disclosures required under paragraph (1)
5 shall be made orally and included in the initial written
6 materials that describe the benefits under the discount plan
7 provided to the prospective or new member.

8 (d) Additional disclosures.--

9 (1) In addition to the general disclosures required
10 under subsection (c), each discount plan organization shall
11 provide to:

12 (i) each prospective member, at a time not later
13 than the enrollment application form is executed by the
14 prospective member, information that describes the terms
15 and conditions of the discount plan, including any
16 limitations or restrictions on the refund of any
17 processing fees or periodic charges associated with the
18 discount plan; and

19 (ii) each new member a written document that
20 contains the terms and conditions of the discount plan.

21 (2) The document required under paragraph (1)(ii) shall
22 be written in simple words and with sentences as short as
23 possible and shall include the following information:

24 (i) the name of the member;

25 (ii) the benefits to be provided under the discount
26 plan;

27 (iii) any processing fees and periodic charges
28 associated with the discount plan, including any
29 limitations or restrictions on the refund of any
30 processing fees and periodic charges;

1 (iv) the mode of payment of any processing fees and
2 periodic charges, such as monthly, quarterly, etc., and
3 procedures for changing the mode of payment;

4 (v) any limitations, exclusions or exceptions
5 regarding the receipt of discount plan benefits;

6 (vi) any waiting periods for certain services under
7 the discount plan;

8 (vii) procedures for obtaining discounts under the
9 discount plan, such as requiring members to contact the
10 discount plan organization to make an appointment with a
11 provider on the member's behalf or to order pharmacy
12 services on the member's behalf;

13 (viii) cancellation procedures, including
14 information on the member's 30-day cancellation rights
15 and refund requirements and procedures for obtaining
16 refunds;

17 (ix) renewal, termination and cancellation terms and
18 conditions;

19 (x) procedures for adding new members to a family
20 discount plan, if applicable;

21 (xi) procedures for filing complaints under the
22 discount plan organization's complaint system and
23 information that, if the member remains dissatisfied
24 after completing the organization's complaint system, the
25 plan member may contact the department; and

26 (xii) the name and mailing address of the registered
27 discount plan organization or other entity where the
28 member may make inquiries about the plan, send
29 cancellation notices and file complaints.

30 Section 14. Notice of change in name or address.

1 A discount plan organization shall provide the department at
2 least 30 days' advance notice of any change in the discount plan
3 organization's name, address, principal business address or
4 mailing address or Internet website address.

5 Section 15. Annual reports.

6 (a) Requirements.--If the information required under
7 subsection (b) is not provided at the time of renewal of a
8 certificate of registration under section 5, a discount plan
9 organization shall file an annual report with the department in
10 the form prescribed by the department within three months after
11 the end of each calendar year.

12 (b) Contents.--The report shall include:

13 (1) audited financial statements prepared in accordance
14 with generally accepted accounting principles certified by an
15 independent certified public accountant, including the
16 organization's balance sheet, income statement and statement
17 of changes in cash flow for the preceding year, except that,
18 subject to the approval of the department, an organization
19 that is an affiliate of a parent entity that is publicly
20 traded and that prepares audited financial statements
21 reflecting the consolidated operations of the parent entity
22 may submit the audited financial statement of the parent
23 entity and a written guaranty that the minimum capital
24 requirements required under section 6 will be met by the
25 parent entity instead of the audited financial statement of
26 the organization;

27 (2) if different from the initial application for a
28 certificate of registration or at the time of renewal of a
29 certificate of registration or the last annual report, as
30 appropriate, a list of the names and residence addresses of

1 all persons responsible for the conduct of the organization's
2 affairs, together with a disclosure of the extent and nature
3 of any contracts or arrangements with these persons and the
4 discount plan organization, including any possible conflicts
5 of interest;

6 (3) the number of discount plan members in this
7 Commonwealth; and

8 (4) any other information relating to the performance of
9 the discount plan organization that may be required by the
10 department.

11 (c) Penalty.--A discount plan organization that fails to
12 file an annual report in the form and within the time required
13 by this section shall:

14 (1) pay a penalty of up to \$500 each day for the first
15 ten days during which the violation continues;

16 (2) pay a penalty of up to \$1,000 each day after the
17 first ten days during which the violation continues; and

18 (3) upon notice by the commissioner, lose its authority
19 to enroll new members or to do business in this Commonwealth
20 while the violation continues.

21 Section 16. Compliance officer.

22 A discount plan organization shall designate and provide the
23 department with the name, address and telephone number of a
24 discount plan compliance officer responsible for ensuring
25 compliance with the provisions of this act.

26 Section 17. Penalties.

27 (a) Civil penalties.--In addition to the penalties and other
28 enforcement provisions of this act, any person who willfully
29 violates this act is subject to a civil penalty of not more than
30 \$10,000 for each violation. Penalties imposed against an

1 individual discount plan organization under this act shall not
2 exceed \$500,000 in the aggregate in any single calendar year.

3 (b) Insurance fraud.--A person that willfully operates as or
4 aids and abets another operating as a discount plan organization
5 in violation of section 5(a) commits insurance fraud and shall
6 be subject to the penalties applicable to offenses under 18
7 Pa.C.S. § 4117 (relating to insurance fraud), as if the
8 unregistered discount plan organization were an unauthorized
9 insurer, and the fees, dues, charges or other consideration
10 collected from the members by the unregistered discount plan
11 organization or marketer were insurance premiums.

12 (c) Theft.--A person that collects fees for purported
13 membership in a discount plan, but purposefully fails to provide
14 the promised benefits, commits a theft and upon conviction is
15 subject to the penalties applicable to offenses under 18 Pa.C.S.
16 Ch. 39 (relating to theft and related offenses). In addition,
17 upon conviction, the person shall be ordered to pay restitution
18 to persons aggrieved by the violation of this act. Restitution
19 shall be ordered in addition to a fine or imprisonment, but not
20 in lieu of a fine or imprisonment.

21 Section 18. Injunctions.

22 (a) Injunctive relief.--In addition to the penalties and
23 other enforcement provisions of this act, the commissioner may
24 seek both temporary and permanent injunctive relief when:

25 (1) a discount plan is being operated by a person or
26 entity that is not registered pursuant to this act; or

27 (2) a person, entity, discount medical plan organization
28 or discount prescription drug plan organization has engaged
29 in any activity prohibited by this act or any regulation
30 adopted pursuant to this act.

1 (b) Venue.--The venue for any proceeding brought under this
2 section shall be in the Commonwealth Court.

3 (c) Procedure.--The commissioner's authority to seek
4 injunctive relief is not conditioned on having conducted any
5 proceeding pursuant to the provisions of the 2 Pa.C.S. (relating
6 to administrative law and procedure).

7 Section 38. Regulations.

8 The department may promulgate rules and regulations to
9 administer and enforce this act.

10 Section 39. Applicability.

11 A person doing business in this Commonwealth as a discount
12 medical plan organization or a discount prescription drug plan
13 organization on or before the effective date of this act shall
14 have six months following the effective date of this act to come
15 into compliance with the requirements of this act.

16 Section 40. Effective date.

17 This act shall take effect immediately.